

NOTHING IS MORE PERMANENT THAN A TEMPORARY SOLUTION - THE STATE OF DANGER WILL COME TO AN END IN HUNGARY, BUT ITS IMPACT REMAINS

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Key findings

The Orbán government's message is that revoking the special legal status introduced during the pandemic refutes domestic and international criticism against it. However, their claim should be taken with a pinch of salt for two reasons: (1) the Orbán government exploited the opportunities created by the special legal order and the political environment to the fullest extent and (2) several elements introduced during the special state will remain in place.

The following changes will not be revoked:

1. Alterations to public law that further weaken constitutional and parliamentary control over the government;
2. measures strengthening the influence of government-friendly economic actors and thus the ruling party's economic power;
3. steps aimed at severely restricting the financial space for maneuver of opposition-led local municipalities; and
4. decisions serving the purpose of silencing critical voices.

1. Public law: Opportunities for autocratic decision-making remain

The ruling majority did not primarily approve measures further expanding the room for authoritarian decision-making in the frames of the authorization bill but independently of it. The authorization law and the state of danger only served as a smokescreen. Behind this cover, efforts to continue deteriorating the rule of law and weaken control over the government intensified. As the joint analysis of the Hungarian Civil Liberties Union (TASZ), the Hungarian Helsinki Committee and Amnesty International Hungary pointed out, these efforts are clear from the way the special legal state will be revoked.

- **Legislative proposal T/10747 on “revoking the state of danger” states that the government can essentially decide itself on when to repeal the special legal state.** The proposal contains no deadline, and the prime minister can choose the exact date for it.
- **Legislative proposal T/10748 on transitional measures states that the government would receive special rights if a state of healthcare emergency was introduced.** The government would be able to implement a state of healthcare emergency without parliamentary approval on the recommendation of the chief medical officer and after a ministerial proposal. The cabinet could introduce this special state in the case of an international public health or epidemiological threat, or if a condition threatens the lives, health of citizens or the healthcare provision system. The beginning and end of the state of healthcare emergency, which is not outlined in the Fundamental Law, would depend on the government’s decision. There is no guarantee that the decrees implemented during this state would expire automatically without parliamentary approval. This would practically mean the permanent suspension of legislative control.
- T/10748 would also amend the law on crisis management. **According to the amendment, if the measures outlined by the crisis management law are insufficient, the government could take any other decision as well.** This renders the Fundamental Law’s provision that the government can use its special powers only under the cardinal law essentially meaningless, as the cardinal law would not define any limits anymore; it allows the government to take any decision it believes to be right. Thus, this means the permanent suspension of constitutional control.

2. Economic decisions: strengthening clientele

The most recent report of the Corruption Research Center Budapest (CRCB) indicated that business circles close to PM Orbán won more public money during the epidemic than ever before.

- These companies won 74 public procurement tenders between January and April 2020, winning around HUF 253 billion (EUR 724.9 million) in the process. This amount equals to 27% of all public money Hungary spent on public procurement tenders over this period, which is a new record. Another record is that the group won 68% of these tenders without competition.
- PM Orbán moved to direct money flows toward favored individuals. A decree defining some of their projects as especially important for the national economy removes administrative restrictions. An omnibus bill put some state properties into the hands of pro-government oligarchs. The cabinet also classified the details of a huge infrastructural project, the EUR 5 billion (USD 5.4 billion) Chinese-financed Budapest-Belgrade railway line. This project will benefit Orbán’s closest circles and Chinese companies such as Huawei, and help Chinese companies to extend their economic influence in the EU.
- Other companies were not that lucky. **The government introduced a special retail tax during the pandemic and then made it permanent;** they will not only collect it until the end of the state of danger, but later as well. The tax is included in the 2021 draft budget, which will cause a HUF 54 billion loss in the sector. The government says the goal is to put the burden of tax measures balancing the budget onto actors that are able to pay for it instead of the general

population. Actors who allegedly gained considerable profits before the epidemic together with a significant market advantage are in the crosshairs of the cabinet's tax measures. However, the same argument did not come up concerning businesses that had won one public procurement tender after another.

- Although the government already mentioned in its economic action plan in April that **it would “protect” Hungarian companies from being bought up by foreigners** the relevant governmental decree was only published on 25 May. **This could prepare the ground for the further expansion of pro-government business circles in some strategic sectors.**

3. Local self-governments

Local self-governments became actors potentially able to show political alternatives to the ruling party in the wake of the opposition's victories in the 2019 municipal elections. Viktor Orbán first tried to curb the competencies and income of local self-governments through legal channels. As this was criticized even within the ruling party, he withdrew the decision and attempted to restrict the space for maneuver mainly for opposition-led municipalities through financial channels.

- **Local self-governments have to seriously extend their basic social services (home care, elderly care, family care, support services, meals, etc.) due to the extra tasks conferred upon them by the government.** However, the cabinet is not providing them with extra resources for it even though state payments did not even cover the costs of basic services before the pandemic.
- At the same time, the government cut the funds of local self-governments referring to the pandemic. First, the cabinet temporarily transferred both future and already spent income from the vehicle tax paid to municipalities to itself. Then, it cut local budgets by suspending parking fees until 1 July and tourism contributions until the end of the year. The 2021 draft budget revealed that the vehicle tax would be paid only to the state next year as well. These budget cuts affect all local self-governments.
- Other measures help the government to specifically target opposition-led municipalities. For instance, the government can designate special economic zones in certain settlements, and the properties and local taxes from these zones are transferred to county-level bodies dominated by the ruling party. Another such opportunity is cutting central development funds from certain local self-governments referring to the epidemic, which predominantly affected opposition-led municipalities. Budapest's 8th district lost HUF 1.1 billion (EUR 3.2 million), and HUF 400 million (EUR 1.1 million) was taken away by the 9th district, both led by opposition politicians.

4. Silencing critical voices

The Orbán government used the situation against oppositional actors from the very beginning. It accused the opposition of “standing on the side of the virus” after they voted against the authorization bill. It attacked Lord Mayor Gergely Karácsony specifically, who was depicted as the person responsible for the entire epidemic due to the relatively high number of infections in an elderly care home in Budapest. However, efforts to silence critical voices went beyond rhetorical attacks.

- The government curbed the finances of the opposition. Under the populist slogan “save money on politicians,” the authorities halved state support for political parties. This will be extremely painful for the opposition, but not for the ruling Fidesz party, which has in effect unlimited access to public funds. At the same time, salaries of state secretaries increased by 35% this year.
- Independent MPs Ákos Hadházy and Bernadett Szél organized multiple car protests against some decisions taken by the government. **However, demonstrators received higher and higher fines for alleged breaches to traffic and epidemic-related regulations: one person was issued a fine of EUR 2000.**
- The anti-hoax law fit into the line of measures aimed at threatening the critical opposition and the free press. The police started over 100 investigations against alleged cases of spreading hoaxes. **The power-political considerations behind the law are indicated well by the fact that governmental statements and government-controlled media did not attack actual disinformation sites, they rather accused independent media outlets of spreading fake news about the epidemic.** The controversial law allowed them to depict actors who deviated from governmental communications – for instance, by publishing non-official healthcare data, experiences – as disseminators of fake news. In May, the police detained two people in quick succession for spreading hoaxes. It was swiftly revealed that the detentions were unjustified, as they only published government-critical Facebook posts. Minister of Justice Judit Varga said about the threatening police actions, which were made more visible by pro-government media, simply that “only those who do not work make no mistakes.” The anti-hoax law will remain in place, but it is only applicable in the case of a special legal state, so it can be brought back any time the government decides to declare a state of danger once again. Even if the central administration has no such intentions, the damage has already been done, as voters in Hungary could see in prime time TV that some citizens were detained by the police for writing a government-critical Facebook post.