

# New Yardsticks

The First Year of the Second Orbán Government

2011.07.15



# Preface

What is more important? For a government to have a detailed programme before the elections or a strategy relying on principles that determines the areas of change? No doubt, nine out of ten newly-elected governments would opt for the former as political situations that had emerged in Hungary by the end of the first decade of the 21st century are indeed rare.

However, such a rare situation had developed in Hungary by 2010 when a mere government programme was not sufficient; it was necessary to lay down a long-term concept, a series of principles diverting the entire country onto a new track of development, which serves to stop the process that had turned Hungary over a period of twenty years into a country with an impoverished economy, a disintegrating society, limited sovereignty and impaired international reputation. What the country needed was not just a programme but new yardsticks.

Our aim is to introduce a few areas, based on the Government's activities in the past one year, which demonstrate the strategic objectives that were identified on the basis of the new Government's new principles, with the aid of new yardsticks. It was naturally not possible to cover all areas, however, this is not necessary in the light of the fact that, based on its own concept, the Government did not wish to issue a government programme in the form of a series of detailed promises committed to paper, and mostly left on paper, as the starting point for its future actions. The emphasis is not on technical details but on the new principles, the new yardsticks.

# New Yardsticks

## TEN THESES REGARDING THE FIRST YEAR OF THE SECOND ORBÁN GOVERNMENT

Revolution means that that which is old is no longer valid. A revolutionary is a person who regards the old rules as invalid and introduces new ones as yardsticks. These new yardsticks are not necessarily original and, following from this, it is not a natural conclusion that they had never previously existed anywhere; the issue of yardsticks is about what will be considered valid from now on.

### CONTEXT: CREATING A NEW SITUATION

#### **1. Thesis of unprecedented authorisation from the people**

In order to regard the old rules as no longer applicable, a certain situation and due authorisation are required.

The events of the past are widely known. The Fidesz-KDNP party alliance gained an unprecedented victory in the 2010 elections in a certain sense. As elections are about the issue of authorisation in democratic parliamentary systems, in line with the nature of political reason, the political forces that entered into government concluded on the basis of the unprecedented election victory that they had obtained unprecedented authorisation from the people; they acted in the belief that they had received authorisation to close an old era and to begin a new one.

#### **2. The intent to draw a line between the past and the future**

It was a fundamental intention of the new government to draw a clear line between the past (the past eight or twenty years) and the future (the era that began with the establishment of the new Government).

In the Government's construction, the possibility to open a new era emerged because the socialist power arrangement collapsed as a result of the elections, and simultaneously „society” and the „common people” regarded as the main support camp of the left wing abandoned them.

The survival of the socialist power scheme was made possible by keeping the problem of the State in focus. The survival of the Kádár State after the change of regime enabled the socialists to justify the maintenance of their own power, even after the collapse of the communist regime, with continuous reform rhetoric and to rely in their unchanged politics on the votes of those living off the State, the inactive strata of society (pensioners, people living off benefits).

However, as a result of the elections, with the collapse of the socialist power centre, the Government believes that the entire premise of the old political approach ceased to hold valid.

### ***3. Re-defining the assessment of the Government's performance***

It is impossible to govern well if a government does not have the people's support.

According to the intentions of the New Government, the yardstick by which the Government's performance should be assessed is no longer a single indicator (GDP), the orders and instructions of the international monetary institutions (IMF) or the opinions of left-liberal intellectuals and reform-economists hidden in moral or academic positions but the day-to-day status security and sense of justice of the common people. This can only be achieved if there is a strong state mindful of the best interests of the nation that is able to enforce those interests and to provide scope for the actions of the Government with a view to its objectives.

### ***4. Increasing the scope for political action***

Scope is not an unalterable feature; it can be reduced or broadened through political action.

The unprecedented authorisation granted as a result of the elections represented a broadening of scope, on the one hand. On the other hand, the newly-established institutional structure, too, contributed to a broadened horizon. Namely, that an „invisible cabinet” not confined within institutional structures was established outside the ministries, the institutions of executive power in the strict sense of the term, that assumed the political and strategic tasks of governance as a centre for political creativity headed by Viktor Orbán. By virtue of this solution, the Government enhanced its own political scope; the „invisible cabinet” is not worn out by the trench warfare of day-to-day struggles but is able to concentrate on the „true” questions of governance, the measures which create unity or ensure the people's continued support for the Government's policy.

## VALUES AND DECISIONS: THE CONSTITUTIONAL RE-ORGANISATION OF THE COUNTRY

### *5. Identifying preferences: determining the „true” tasks of governance*

The second Orbán Government embarked on the re-organisation of the country with great zest. At the level of key terms, the first year of the Government may be summed up as follows: symbolic decisions, halving Parliament, three strikes law, 29-item economic plan of action, governmental management of the Kolontár disaster, 2nd economic plan of action, crisis taxes, media law, New Széchenyi Plan, Széll Kálmán Plan, constitutional and social consultation, constitutional debate, new Constitution. The Government therefore can hardly stand accused of having been idle or having just talked instead of governing.

While the socialists always had an ambivalent approach to the issue of reforms (reforms always had to be toned down, the processes started never reached conclusion), the second Orbán Government put an end to the former reform rhetoric also at the level of terminology and embarked on the „constitutional re-organisation of the country”. As it is impossible to change everything at once, the Government identified certain preferences, that is, prioritised.

1. Because there are issues which must be re-defined on the basis of new principles in the new situation, thereby making clear that the old system is no longer valid. In specific terms, problems and the methods for their resolution must be identified on the basis of the principle of the „supremity of the interests of the public over inferior private interests”.

The best and most obvious example was the handling by the Government of the Kolontár disaster. Kolontár’s clear and express political message was that a new era had begun, things had changed, private interests may no longer take priority over public interests and the State and the Government were not just able but also willing to take action. The State has duties which coincide with the people’s expectations and will; providing compensation, ensuring the survival of jobs, preventing the emergence of further losses, holding those responsible accountable and providing assistance in achieving „active solidarity”.

2. *Because there are issues which may, from the Government’s point of view, prove to be pseudo-questions and these politically charged questions prevented effective action on the part of the Government.*

From the perspective of the new yardsticks, such a pseudo-question is the appointment of state dignitaries as this is not directly related to the issue of the people’s every-

day status security, however, the disputes surrounding these appointments prevent and hamper effective action on the part of the Government.

3. *Because there are issues which give rise to actual dilemmas in decision-making, and whichever path the Government will opt for, it will violate certain values and interests.*

A dilemma of this nature was, for instance, the Government's attitude towards the Constitutional Court which concerned the principle that the autonomy of the institutions of the constitutional state cannot in every instance overwrite the criteria of one's natural sense of justice.

4. *Because there are issues which were intentionally confused under the socialist regime and the clarification of which is a pre-requisite for the re-arrangement of the Government's priorities, yet, these now provoke criticism from the social groups that are interested in the maintenance of the old social order.*

The meaning of taxation at a single rate may be determined not only by the Government's opposition („Fidesz helps the rich”) but also by the Government itself by making it clear that social policy has nothing to do with taxation.

#### **6. *Creating cohesion and unity seen as a criterion of eligibility for governance – so-called symbolic issues***

For the clear enforcement of national interests, we need not only space and scope but we must also have or must be able to create a political community that is interested in the achievement of common goals. Certain symbolic issues, which were settled in the spirit of this objective, may reinforce national cohesion and unity (the Acts on the Trianon Memorial Day and dual citizenship, the declaration regarding the System of National Cooperation). The passage of the new Constitution facilitating the country's constitutional re-organisation, which served to restore national self-esteem, too, was about this underlying objective. And as the main consideration was to create unity that helps to boost the Government's ability to govern, it is understandable that the process of constitutional legislation was equal to the new Constitution in the political sense. The Government believes that the constitutional consultation served to ensure that the opinions of the people should take priority over the opinions of politicians who wish to preserve their privileges.

#### **7. *Creating cohesion and unity seen as a criterion of eligibility for governance – issues concerning status security***

Placing symbolic matters on the agenda may create unity, however, in order to maintain unity, it is necessary to manage the people's pragmatic problems in a principled manner.

Based on the experiences of the recent past, the Government concluded that people were tired of ideological warfare; we must leave the era of ideologies behind and must focus on the day-to-day status security of people as a priority in the Government's agenda. This is why the Government restored the original period of eligibility for maternity benefit, created a family-friendly taxation policy and is attempting to improve the situation of borrowers who took out loans in foreign currencies. It is not possible to govern well if the people constantly feel the threat of social demise and see their household prospects in a negative light. The status security of the people is one of the most important constituents of the new balance, without which the economy cannot operate effectively in the long run.

The Government was suddenly faced with a multiple challenge; it was simultaneously required to reduce state debt, to boost economic growth and to maintain status security in society. The Government believes that only a new policy is able to achieve this.

This new policy

1. places the renewal of Hungary into focus;
2. claims that the old tools and solutions do not work under the changed circumstances (austerity measures) and stresses the necessity of devising new ones (e.g. crisis taxes, launch of public employment programme); this recognition was also confirmed by international events (the Irish „miracle” coming to an abrupt end, crises in Greece and Portugal);
3. is based on the premise that partial adjustments do not yield a satisfactory result; radical changes extending to the entire system are required (this is what the country's „constitutional re-organisation” is about);
4. stresses that it is not enough to change things around us but we ourselves must change as well; in pragmatic terms, this means the development of a new approach to work and the establishment of a work-centred economy (and this also manifests itself in programmes such as the Széll Kálmán Plan; at the same time, this also involves unpleasant social conflicts, such as the revision of the working capacity of disability pensioners, the termination of early retirement, the shortening of the term of the unemployment benefit and public employment programme);
5. cannot be successful without a strong state.

#### **8. Reinforcement of the State**

The Government believes that the bad governance of the previous eight years has led to the comprehensive crisis of Hungarian society and the economy; while the socialists

outsourced, and thereby fatally debilitated, the State, they relied on the people living off the State as their power base.

In other words, the political aim to reinforce the State is effectively a definitive departure from the Kádár policy. In specific terms, instead of inactive citizens, it is necessary to create a massive block of active citizens who, on the one hand, support the Government on account of the measures taken in their favour and who may, on the other hand, by virtue of their economic strength, contribute to the growth of the economy and the improvement of competitiveness and may be able to support the ever smaller block of inactive citizens.

In governmental terminology, this may be summed up in such a way that it is necessary to reinforce the State in the interest of improving the Government's ability to govern.

The most important duties of a strong state are to enforce the interests of the public, to enforce national interests, to consistently ensure compliance with the laws, to maintain law and order and to create security. The Government based its decisions taken in individual cases on this philosophy.

- The IMF conflict served to test the ability of the strong state to enforce the interests of the public, as part of which it transpired that, by virtue of its nature, the government of a national state must necessarily take different criteria into consideration (attempt to regain economic sovereignty, to find a way out of the debt trap) than an international financial institution (that only considers its own interests and demands its money back).
- A strong and pro-active state made its presence felt also upon the termination of the mandatory private pension pillar of the pension system in the interest of the reduction of state debt and the safety of pensions. In the nineties, the Hungarian left-wing parties made changes to the pension system which did not only prove to be unsustainable but caused the State as well as the people to find themselves on the losing side. The only winners were the private pension funds that pursued their own interests.
- The economic measures implemented in the interest of the creation of a strong state (such as, for instance, the re-acquisition of the MOL share package) and the introduction of a patriotic economic policy helping local small and medium-sized businesses, too, served the enforcement of national interests.

## LIMITS: OLD YARDSTICKS

### 9. *The beneficiaries and guards of the old system*

We obviously cannot change everything at once. At the same time, it is also true that the fundamental reason for cyclically recurring crises is that certain systems have escaped transformation altogether or the processes embarked upon have never reached completion. The programme of the country's constitutional reorganisation is aimed at changing systems and at taking the reforms embarked upon all the way to completion.

The beneficiaries of the old system who wish to defend their privileges (socialist political and economic elite) are therefore determined to restore the old system. It is their objective to restore a bi-polar political order in which they themselves determine the opposing poles (democrats vs. Fascists). However, the strenuous efforts of the old guard that seek to revive the '89 fault line have their own limitation; lost credibility, disgraced players, bad questions and worse answers, while citizens are fully aware that they only defend their own interests and seek their own benefit.

### 10. *The „West”*

The „West” will be another limitation by virtue of the fact that the old guard use it as a political weapon. The function of the „West” used as a political weapon is perfectly clear; it is used, on the one hand, to contrast „progression” with the Hungarian Government's „reactionary” practice and, on the other hand, to make the political scene bi-polar as those who divide the political camp in this manner represent the progressive West, while their opponents are necessarily reactionary, fascist, Asian.

This old yardstick is so powerful that not only public opinion at large believes that the „West” is homogeneous but also those who claim it. This is the reason why the defenders of the old system turn to the present-day equivalent of the Soviet troops, the socialist West, whenever they do not flourish.

However, the westerly features of the old regime, too, have their limitation; the simple fact that there is more than one West. In the West, too, people have different opinions, there is political division and there are political debates. In seeking an ally, the Government may therefore turn to another „West”.

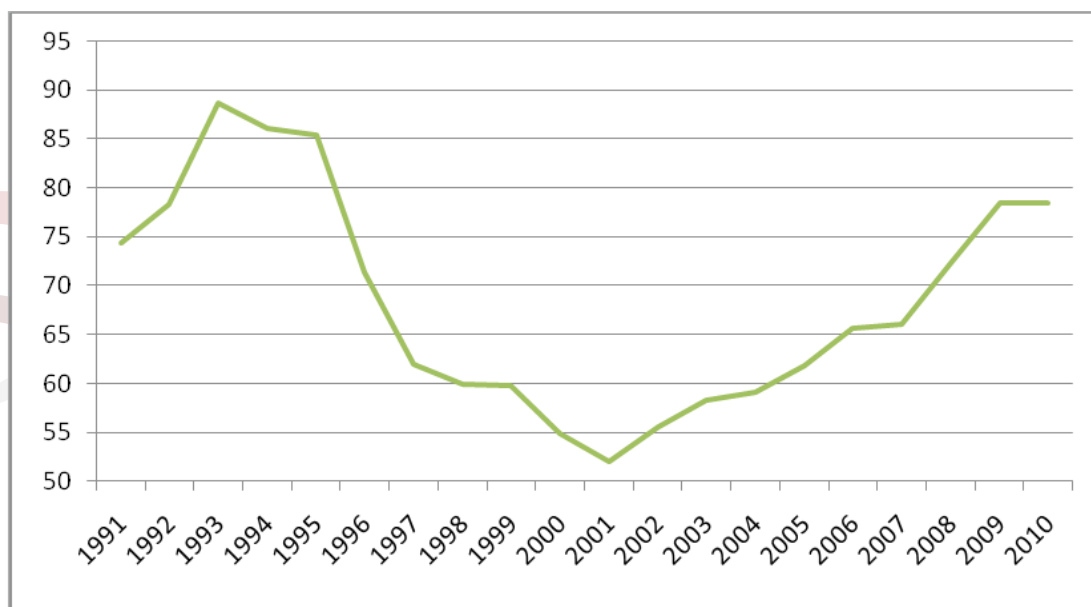
# State debt

## THE MAIN PROBLEM: A HIGH DEBT RATE

Hungary found itself in a shameful position in Europe and in the region in the past decade, as far as state debt is concerned. In response to this, following the stabilisation of the budget as a short-term necessity, the new Government made the reduction of Hungary's state debt its main priority in the Széll Kálmán Plan, thereby expressing its commitment to structural reforms and a balanced budgetary policy.

Hungary's state debt has for a long time been much higher than that of its regional competitors. As the direct inheritance of the Kádár era, Hungary's debt rate was well in excess of 60% already in 1990. The country's debt rate increased fast in response to the transformation crisis in the first years following the change of regime. However, as a consequence of the revenues of privatisation and restored economic growth, this trend started reversing in 1993 at almost 90%. Hungary's debt rate fell dramatically all the way until 1997 and, following a short period of stagnation, it decreased by another 10 per cent between 1999 and 2001 to 51.5%.

DEVELOPMENT OF HUNGARY'S STATE DEBT RATE



Source: State Debt Management Centre, European Commission

The year 2002 may be regarded as an extremely important turning point also in this respect. The first Orbán Government handed over the economy with a high economic growth rate and a reduced state debt rate well below the Maastricht 60%. However, the next government failed to rise to the challenges of the new era.

As a result, in comparison with its rivals, the Hungarian economy became ever less competitive. In spite of the high rate of taxation, the efficiency of the collection of taxes remained low. Due to the fact that work was not sufficiently encouraged financially, social and labour-related expenditures accounted for an increasingly large proportion of the budget. The widening gap between revenues and expenditures further increased Hungary's debt, the interest burdens of which restrict the scope of the central budget also at present. In addition to the lack of structural reforms, the previous government also made the mistake of financing social expenditures from the increasing state debt, rather than productive expenditures with the promise of raising revenue.

The bad and unchanged economic structure, however, did not only accelerate the rise in the country's nominal debt but also held back the potential growth of the economy. In consequence of this, the country lost its ability to control and to get rid of its ever growing debt, and the debt rate therefore started rising once again at a phenomenal speed to almost 80% of the GDP. Therefore, the primary reasons for the rise of Hungary's state debt in relation to the GDP should be sought in the extremely high deficit of the budget in consecutive years and the slow growth rate of the economy.

This fundamentally problematic trend was aggravated by the fact that an increasing proportion of the debt was in foreign currencies. The foreign currency percentage of the state debt decreased until 2002, however, in response to the increased interest on the part of foreign investors, the State Debt Management Centre issued an increasingly large number of bonds denominated in foreign currencies, while as a consequence of the proportion of the IMF-EU facility drawn in 2008-2009, the entire portfolio of foreign currency debt increased significantly. As a result, the foreign currency ratio of the Maastricht state debt rose from 25% in 2002 to 47% by September 2010.

Due to the processes described above, Hungary's „Maastricht-type” debt increased to HUF 21,790 billion by the end of 2010 which corresponds to approximately 80% of the GDP, while the gross state debt of the central budget amounted to HUF 20,041 billion. The average remaining term of this debt portfolio is approximately 4.5 years, while the calculated implicit interest rate is 5.8%.

By EU comparison, the Hungarian state debt rate is in the higher category. The debt rates of two countries in the EUR zone, Italy and Greece, exceed 100% of the GDP, while Hungary's indicator is above the EU 27 average.

The ever increasing debt rate exhausts the opportunities of future generations, which means that we are mortgaging our future. Additionally, the high state debt rate also

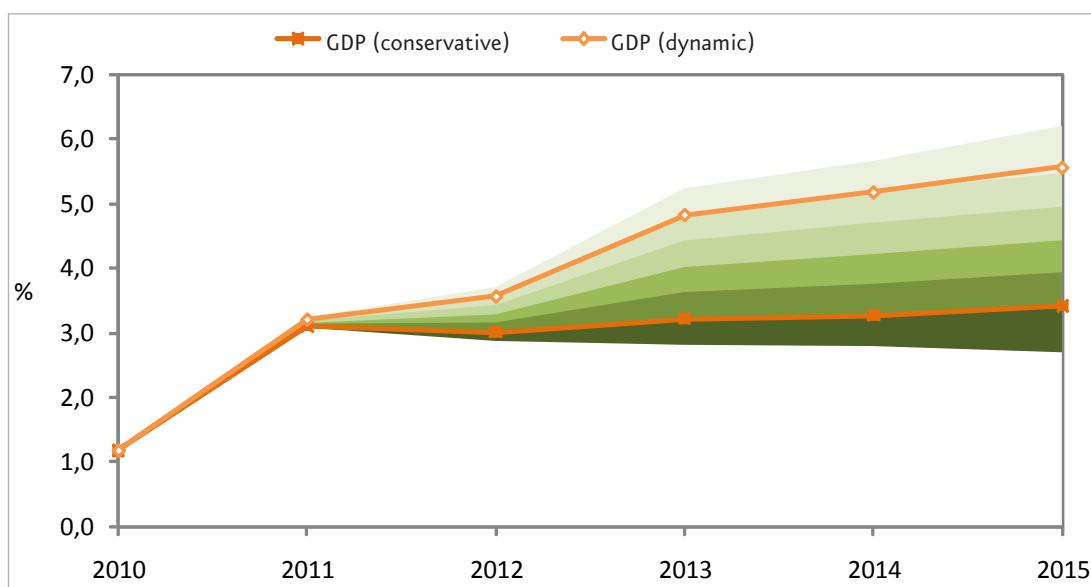
results in high amortisation burdens, in particular, in the relatively high yield environment that characterises Hungary, which reduces the scope of the central budget. At present, the State spends some HUF 1,100 billion on interest payments, an amount that corresponds to 4.3 of the GDP, which is the third highest in the European Union and the highest within the region.

## MAIN OBJECTIVE: REDUCTION OF STATE DEBT

The Hungarian Government pledged to manage the problem of state debt with appropriate measures both in the Széll Kálmán Plan and in the Convergence Programme as the most important problem of the decade ahead of us.

The Convergence Programme outlines two growth paths: the conservative macro-economic path is based on a more moderate increase in employment and a less ambitious rise in investment, and projects a 3 to 3.5% growth rate in the medium term. The dynamic scenario reckons with a significant expansion in employment, the creation of some 400,000 jobs over the next 5 years, which may be achieved through the successful implementation of the Széll Kálmán Plan and other governmental measures. In addition, compared with the conservative path, the dynamic scenario projects a significant increase in investment which may come about as a result of increased credibility and a fall in the country risk premiums achievable through the successful implementation of the plans of the Government. The increased supply of work force will be absorbed by the new production facilities to be created as a result of new projects. As a consequence, the dynamic macro-economic path reckons with a GDP growth rate between 4% and 6%. The faster we approach these values, whilst keeping expenditures in control, the faster we may rid ourselves of our inherited debt.

## DEVELOPMENT OF THE GDP GROWTH RATE



Source: Ministry of National Economy

The future development of the state debt in relation to the GDP will also greatly depend on the current deficit of the country over which the financial government has direct control.

The 2011 budget determined the target deficit at 2.9% of the GDP, not including any one-time effects. The Government continues to remain committed to the observance of this target rate. In the interest of achieving this goal, the central budget reduced the number of those employed in the public sector, did not increase salaries, significantly cut benefits and embarked upon the transformation of public employment. In accordance with the laws in force, the rate of pension rises was 80% determined on the basis of the expected rate of inflation and 20% with a view to the anticipated development of incomes, while the nominal value of family and social benefits did not change. In order to have a better understanding of future scenarios, we must, however, also take account of the changes that occurred in the pension system in 2010, as a consequence of which 2011 will be a unique year for budgetary purposes.

Some 97% of private pension fund members decided to re-enter the state pension system which has a major impact on the development of state finances. The accumulated private pension fund assets of fund members returning to the state system will be transferred to the Pension Reform and Debt Reduction Fund specifically created for the purpose in June 2011. Upon the drafting of the budget, in the interest of the observance of the annual deficit target, the Government planned to transfer HUF 529 billion to the state pension fund from the private pension fund assets re-directed to the State,

while the assets of those returning to the social security system will improve Hungary's Maastricht balance, as a result of which the budget would have closed the year with a 4% excess.

The Government, however, assumed a part of the debts of MÁV and BKV, which will reduce the excess figure by 1.3% in relation to the GDP, while the replacement of PPP projects will result in a further, 0.7% negative shift. As a result, the original deficit figure will change to a 2% excess in relation to the GDP. In spite of this, the originally approved cornerstone budget figures will not change. The Government wishes to observe the target deficit which does not include any one-time effects. The establishment of the already approved HUF 250 billion stability fund testifies to the Government's commitment.

*The 2012 budget* will also benefit from the savings that the structural reforms are expected to yield, however, a marked improvement in the balance of state finances continues to require tight budgetary planning. Therefore, cost-effective operations will continue to characterise the public sector, while thanks to the new system of public employment projects, based on the number of participants, expenditures used for wages and contributions may decrease by some half a percentage point compared with 2011. Material expenditures will not change in the central chapters of the budget; in the case of local municipalities, these may increase by the anticipated inflation rate, while the chapters of the budget may plan their expenditures on a base reduced by the majority of the 2011 stabilisation reserve. Benefits available on the labour market will change as set out in the Széll Kálmán Plan and we shall witness the launch of the system-level transformation of higher education, the size-economy restructuring of local governments and the streamlining of public administration.

As a consequence of these measures, based on the calculations of the convergence programme, the current operating expenditures of the public sector will decrease by almost one percentage point in relation to the GDP, while the transformation of the system of social benefits will contribute to the reduction of the rate of re-distribution by a further one and a half percentage points.

Revenues will be reduced as a result of the „halving” of the yields of „super grossing” in the case of the personal income tax, however, the continued cutting of tax credits will have a reverse effect. As part of the process of legal harmonisation with EU law, the excise duty on tobacco products will rise further and the transformation of the system of product fees serving to protect the environment, too, will provide extra revenue. Against the background of the maintenance of the crisis tax imposed on financial institutions, tax and contribution revenues will only decrease to a minimal extent in relation to the GDP in 2012, and we shall consequently observe a lower, 2.5% deficit rate compared with the year before.

Budgetary projections for 2013-2015 will be determined by improving macro-economic prospects, the full benefits of structural reforms and the maintenance of a policy of economy in budgetary planning.

#### DEVELOPMENT OF THE BALANCE OF THE BUDGET

2009-2015

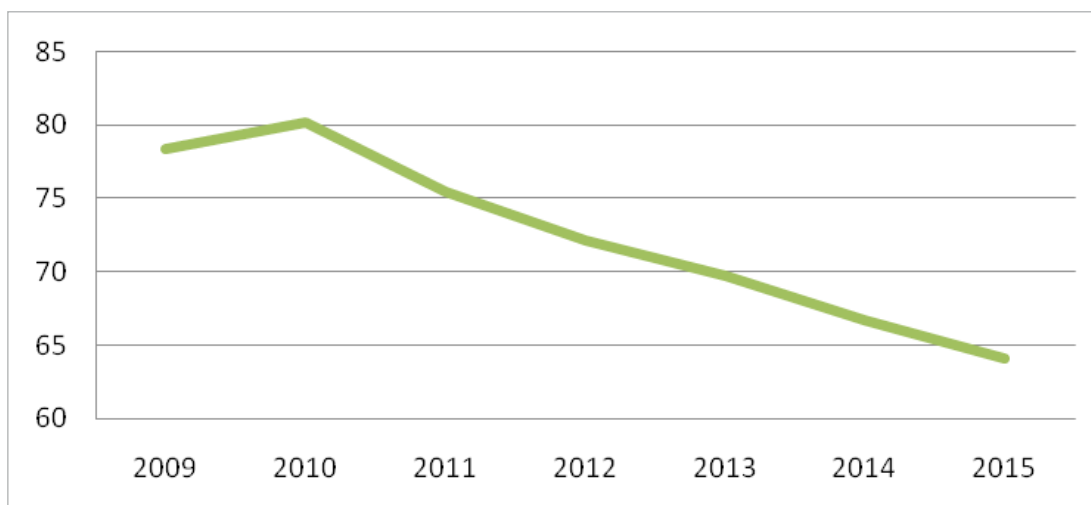


If the balanced budgetary figures are combined with a high growth rate, we may become one of the largest debt cutters in the western world.

Our debt rate will decrease from the peak rate in excess of 80% in 2010 by almost 5% already this year. The process will not stop, however. In 2012, we shall move closer to the Maastricht limit by a further 3.4% and in 2014 by 2.4%. We shall thereby repeatedly reach a rate somewhere around 64% by 2015, which we last experienced years ago.

In response to the one-time and structural measures serving to improve the balance of state finances, we expect to pursue the following state debt rate path:

## DEVELOPMENT OF THE LEVEL OF STATE DEBT IN RELATION TO THE GDP



Further, in the interest of ensuring the preservation of the results achieved by virtue of the implementation of the state debt reduction programme in the long run, over multiple political cycles, the new Constitution contains a state debt rule. As long as state debt exceeds 50% of the GDP, Parliament may only approve budgets which set out the reduction of state debt. Additionally, in the course of the implementation of the central budget, the government is not allowed to raise loans that may increase state debt. The government as at any time may only depart from the stipulations above in instances when this is the only way to alleviate the effects of external shock situations beyond our control.

# Social policy

Hungarian social policy solutions were required to meet complex criteria in the spring of 2010. The world economic crisis and the then latest experiences thereof observed in the Mediterranean region ruled out answers relying on external resources. The peculiar electoral experiences of the previous political cycle and the continuous crisis measures gaining intensity at an ever increasing rate tried the patience and tolerance of electors to the utmost. The right wing based its promises made during the campaign on the rejection of this political course and, as a result, it simultaneously excluded the pursuance of a path relying on a policy of austerity measures. Additionally, as a central element of its campaign, the right wing also promised to make genuine tax cuts. It was impossible to meet these three conditions simultaneously on their own.

We needed new answers, new ideas and new measures that point beyond the pool of orthodox political tools. In spite of the fact that the governing party alliance looks upon itself as a member of the family of moderate European right-wing parties, they were not in the position to give right-wing socio-political answers, as judged by traditional right-wing standards, on an exclusive basis. While they remained true to their original right-wing character as regards the most important principles, the creation of a new yardstick and detachment from the right-left dichotomy to the fullest possible extent were placed in the focus of their policy and perception of reality.

The new yardstick draws from the experiences of the earlier internal crisis and the subsequent global crisis in many respects. While, as regards the economic and market role assumed by the State, we may see a withdrawing, lesser role, heavily relying on incentives, on the right-hand side of the old scale, the subsequent crises showed that a system so completely left to its own devices was heading for certain failure without any impediment on its way. Accordingly, the new yardstick excludes or, at least disfavours, certain answers. In Hungary, at the time of the rule of the socialist-liberal coalition, as a consequence of the under-regulated housing loan market, masses of households incurred debts in foreign currencies due to the promise of lower interest rates, while paying no heed to the significant exchange rate risks involved. In this field, in responding to the problem, the new Government opted for measures pointing in the direction of a regulating state in the form of measures prohibiting the registration of mortgages on loans

denominated in foreign currencies, rather than for a free-market answer that would normally embody the typical right-wing approach.

At the same time, when looking at this from a different perspective, the socio-political measures implemented also reflect right-wing politics in the traditional sense. On the whole, this manifests itself in the encouragement of action and ambition, instead of the toleration of passivity and the general enforcement of rights. The considerable rearrangement of the personal income tax system testifies to this desire most vividly and also specifically. Already at the time of the first Orbán Government, we may have witnessed that the system of taxation reflected the social policy objectives that were built on the idea of active and multiplying families one way or another, in particular, in the form of tax benefits granted in respect of children. In the case of the government that entered into office in 2010, this intention is even more marked. The system of benefits available to families with children is combined with the removal of the higher tax rates and the elimination of progressive taxation.

In contrast to the vehement left-wing criticism that was expected as a matter of course, it was the intention of the Fidesz-KDNP Government to open up social mobilisation with this measure. If, so the argument goes, someone is able to obtain a higher income through hard work and talent, the tax system does not stand in the way of this growth. An interesting feature of this argument is that it deduces an answer that may be regarded as traditionally right-wing from an ideal, social mobility, that is traditionally left-wing. This, too, clearly demonstrates the conceptual difficulty that is posed by the application of the old yardstick in the course of the evaluation of some measures implemented by the second Orbán Government.

The significant reduction of the term of eligibility for unemployment-related benefits, the review of the system of disability pensions and the elimination of the rules permitting early retirement in certain circumstances are, on the other hand, more in line with traditional right-wing answers. At the same time, all of these measures are combined with solutions, at the level of plans at the time of the writing of the present article, that may hardly be described as hard-line right-wing answers, which serve to provide employment of some kind through the direct presence of the State for groups kept in passivity by the incentives of the regime previously in force. These solutions may manifest themselves in public employment projects, conscious job-creation policies or specific career models in the case of those in the employ of the State.

We could go on enumerating further examples, however, my article aims more to illustrate, without intending to provide a full and exhaustive list, for what reasons and under what circumstances the need for the introduction of a new yardstick may be regarded as valid. There are, however, a great many question marks as well. It is unclear what end-points this new yardstick has and what new political contents develop as a result.

If the new yardstick re-arranges the political race course, similar to the logic of the old yardsticks, will new crises inevitably emerge? The tax system and the incentives are in place, however, there may be factors of uncertainty concerning the economy itself. The launch of growth and an increase in the number of jobs may represent the only viable option under the given world economic circumstances. External funding is not an option as credit resources are scarce and expensive, and borrowing is not permitted under the stringent budgetary rules now also set forth in the Constitution. Without growth and with the stagnation of the number of work places, the new regime may only function successfully by relying upon the tools of perception management, however, a crisis will necessarily arise.

If, however, by virtue of favourable circumstances in the external and internal environment and the successful implementation of economy development policies, the Government is able to make progress both in the growth of the economy and in employment, it will be able to fend off any crisis that may arise from political fluctuations. Conditions may seem favourable; global recession lowered the base values both in terms of the performance of the economy and employment. The economy significantly picked up in Hungary's most important export markets, and there are tremendous reserves in employment. The opportunities are there, and we may conclude with some degree of optimism that it now depends, to a large extent, on the skills and competence of politicians whether they are able to defer the crises that necessarily emerge from time to time to the distant future within the boundaries of the re-defined yardsticks and to successfully renew during the remaining time that may be ample for the purpose not only the yardsticks themselves but the whole of the country, the State, businesses and households alike.

# Constitution and constitutional legislation

Parliament passed Hungary's Constitution on 18 April 2011. By virtue of this act, we may declare the twenty-year transitional period following the change of regime closed. The majority of society expressed a devastatingly critical opinion on the achievements of this period. In the light of this, the second Orbán Government attempts to break away from the elite strategies employed in the past 20 years that may be regarded as unsuccessful. The government parties have recognised that, due to the crisis of the old policies, a new policy is required. The symbolic, and partly content, foundations of this new policy may be rooted in the new Constitution in the future, in particular, in the light of the fact that our previous Constitution created at the time of the change of regime proved to be unable to prevent the development of certain fundamental problems (e.g. extreme rise in state debt). The Constitution in force until the end of 2011 came into being as a result of a forced compromise which fundamentally only served two purposes: 1. on the one hand, to provide a constitutional framework for the process of a peaceful change of regime (political stability), and 2. to simultaneously create the conditions that allow certain communist elite groups to salvage their power also in the new regime.

## THE TRANSITIONAL CONSTITUTION IN THE LIGHT OF A LACK OF LEGITIMACY

The constitutional order that came into being upon the Hungarian change of regime consolidated over a period of almost 20 years and proved to be operational, however, it failed to make up for the initial lack of legitimacy incurred at the time of its inception. The reasons for this are as follows.

- From a formal point of view, Act XX of 1949 („Stalin's Constitution") continued to remain in force. While a new constitutional system came into being from a content point of view, there are traces of a dated, totalitarian approach in its structure.

- Neither the elite of the old regime, nor the representatives of the new parties wanted a constitution like this. Instead of a constitutional consensus, a forced political compromise came into being.
- In the absence of their election, the representatives that attended the National Round Table Negotiations were not legitimate players in the change of regime and had no authorisation to create a new constitutional structure. The National Round Table Negotiations were not designed to create a constitution but to regulate the process of the change of regime in a planned fashion.
- The first phase of the 1989 constitutional legislation process was completed by the illegitimate last communist Parliament elected in 1985.
- The Preamble to the Constitution of the change of regime itself refers to the transitional nature of the document, that is, it makes reference to a new, final constitution to be created in the future.
- The Constitution of the change of regime had no potential to strengthen social cohesion and consequently cannot have all the required sources of legitimacy.

Therefore, the revision that took place in 1989-90 did not result in a completely new constitution, while no new constitutional concept emerged in the last 20 years that had sufficient political support. As a result, on the one hand, there was ongoing constitutional legislation in Hungary which manifested itself in several laws amending the Constitution and, on the other hand, the Constitutional Court gained a prominent role. In a number of instances, the Constitutional Court transformed the political conflicts presented to it on the grounds of constitutional construction into legal conflicts, thereby interfering with the realm of politics.

## WHY DO WE NEED A NEW CONSTITUTION?

The Government has set out to achieve no less than to eliminate the system-level errors that greatly deteriorate the chances of citizens and to reduce the permanent deficit of legitimacy. The problems that also afflict Europe cannot be resolved with superficial solutions; what we need is the „constitutional re-organisation” of the country. „Constitutional re-organisation” naturally involves the creation of a new Constitution. The parliamentary majority realised that the Constitution currently in force cannot be expected

to address the old deficiencies and to rise to the new challenges; a new Constitution is required for the following reasons.

- The problem of the lack of legitimacy that emerged 20 years ago must be resolved. The legitimacy of the Constitution passed on the basis of the decision of the present Parliament is far greater than the legitimacy of the Constitution created at the time of the change of regime.
- It is unprecedented in the EU that the Constitution of a nation relies on Stalinist foundations. Without changing this, we cannot fully detach ourselves from the totalitarian past. In the post-communist region, Hungary alone has failed to create a new Constitution since the change of regime.
- The Constitution currently in force is admittedly transitional in its nature which should have been remedied by now. Parliament now had the chance to close the change of regime with the passage of a new Constitution also in a symbolic sense.
- We must resolve political, economic, social and moral problems that cannot be delayed any further which can only be addressed by a new constitutional system.
- As a consequence of the increasing lack of consensus, the „constitutional moment” avoided us in the last 20 years, however, in 2010, the Government received electoral authorisation of a magnitude that rendered constitutional legislation an obligation on its part.

## VIRTUES OF THE NEW CONSTITUTION AND THE CONSTITUTIONAL PROCESS

The new Constitution simultaneously symbolises the definitive conclusion of the change of regime, national cohesion and our shared values deserving constitutional protection and is expected to bring long-term stability to Hungary’s constitutional life in the next few decades, thereby reinforcing the constitutional state and social peace. The most important virtues of the new Constitution and the constitutional process are as follows.

- *Reduced deficit of legitimacy.* With the passage of the new Constitution, we may hope to lessen the permanent deficit of legitimacy observed since the change of regime. Legitimacy is reinforced by the constitutional consultation, as part of which almost 1 million citizens stated their opinions, and the series of academic and professional debates over a period of one year which has been unprecedented in the past 20 years.

- *The spirit of 1956.* In the interest of reinforcing our new democratic identity, the new Constitution embraces the fundamental values of the 1956 revolution and breaks with the pre-May 1990 totalitarian era.
- *New social cohesion, laying the foundations of a new national identity.* The Preamble to the new Constitution is, in spite of all reasonable criticisms (e.g. highly post-romantic), capable of providing a spirit of cohesion and enhancing national identity.
- *Recognition of the institutions and core values of parliamentary democracy.* The parliamentary majority looks upon the preservation of the institutions and core values of parliamentary democracy as part of our commitment to our European values and a historical achievement of the change of regime.
- *Restoring the prestige of rights of freedom.* The new Constitution restores the prestige of fundamental rights in the spirit of the EU's Charter of Fundamental Rights. It views freedom and responsibility in natural unity and thereby re-regulates the relationship between the State and its citizens.
- *The new Constitution is a Constitution of the 21st century.* The new Constitution sets out to represent the interests of families and future generations as a core value. It pledges to maintain ecological diversity.
- *Representation of European identity and the values of the EU.* From among the constitutions of the current members of the European Union, the new Hungarian Constitution makes the most references to Europe, the EU and its common values.
- *Constitutional measures to create economic security.* The new Constitution provides constitutional guarantees in connection with the issue of public funds; a balanced and transparent budget is an institution to be protected, while the new Constitution also protects the assets of the nation. It prohibits rises in state debt and the central budget must ensure that that the level of state debt shall not exceed one half of the previous year's gross domestic product. This represents a departure from governmental practices in the past 20 years.
- *Improvement of public security as a constitutional interest of the public.* The new document pledges to improve public security, introduces the concept of actual life sentence and places the concepts of lawful defence and the protection of property in a completely new law-philosophical context. The State alone has authorisation to resort to the use of force with legitimacy.

# System of local government

The government parties elected in 2010 also set out, as part of their priority objectives, the fundamental transformation of the local government system. They initiated the introduction of new yardsticks in the areas of public administration, regional development, local government and self-governance which, on the one hand, serve to remedy the anomalies, structural and functional difficulties accumulated over the past twenty years and may, on the other hand, divert the sectors mentioned above onto a new path of development.

The new criteria and new yardsticks identified represent radical change in the structure, operation and funding of the system of local government. Based on the measures and concepts of the right-wing government, these serve to create foundations which place cost-efficiency and a task-oriented approach in focus in a way which simultaneously allows citizens to avail themselves of public services of the highest possible quality. These contemplated measures are designed to re-structure and to regulate the independence of local governments within more stringent boundaries.

## ISSUES OF THE STRUCTURAL TRANSFORMATION OF THE SYSTEM OF LOCAL GOVERNMENT

(1.) The Government must review the operating conditions of small localities and villages and must determine the possible directions and dimensions of transformation. With a view to the criteria of effective operations, it is necessary to identify the public services which small communities are able to provide in cooperation, at the level of micro-regions.

Within a short time following the evaluation of the status of the multi-purpose micro-regional associations that have operated in the past seven to eight years, a decision must be taken as to the form of the future cooperation of small localities. The intent to establish, or rather re-establish, the district system emerged a number of times in the

course of the creation of the Government's strategy related to state administration and local government. With the reinforcement of the middle level of public administration, the county level, it is an open question what types of administrative duties may be delegated to the micro-regional/district level. The above-mentioned associations will, no doubt, continue to survive as there will be a number of duties to be fulfilled by local governments in the future which local governments are able to fulfil more effectively and more economically within the organisational framework of association.

The new Constitution, too, allows local governments to freely decide on the establishment of associations; at the same time, the two-third authorisation also permits the establishment of a „mandatory” system of associations.

At this point in time, it appears that a „mixed” system of mandatory and free associations may come into being, that is, a rule of law will determine the group of duties to be fulfilled jointly on a mandatory basis, however, local governments will be free to enter into associations for the fulfilment of other duties.

Naturally, the possible establishment of the old/new unit of state administration, the district, may provide a framework for the joint fulfilment of responsibilities by the local governments within the given district, thereby reinforcing economic, social and other relations between the individual communities, while it may also set a limit of some kind to the cooperation and association of local governments forming part of different districts.

(2.) We must adopt a clear position with respect to the future of county municipalities. It is necessary to eliminate the anomalies caused by operations in the past twenty years at the middle level of public administration and local government, in the counties.

One of the main deficiencies of the present local government system is that the regional, county level is extremely weak, has hardly any powers and is least in the position to decide on the utilisation of funds. Previous governments set out to establish regional public administration, however, implementation failed every time. Regional public administration effectively turned into a „vacuous space” above the micro-regional level, left without means and tools, which is functionally unable to provide a real framework for the regional level of local governance.

By establishing the county level as a unit of local government, state administration and regional development with significant powers and funds at its disposal, a regional unit of local governance could come into being with rich traditions and, from the citizens' point of view, a true identity, which would be able to boost Hungary's regional and rural development. This could hardly be achieved without a strong middle level in public administration, which is regrettably testified to by Hungary's administration organisational and local government practice in the past two decades.

(3.) The operation of the capital, or more precisely, the anomalies of its operation, clearly demonstrate the problems of the whole of the local government system. The current bi-level Budapest municipality model is extremely complex, complicated and wasteful. Therefore, the Government strives to achieve nothing less than to eliminate this triple system of problems within the shortest possible time and to establish an effective and viable metropolitan municipality system.

The main problem should be sought in the deficient cooperation between the metropolitan and district municipalities, the existence of parallel functions and practices and the over-division of responsibilities and competencies. In simple terms, there is no central force that would achieve effective operations in Budapest under standard supervision.

More standardised management practices would be able to render the operation of the city, riddled with over-grown competencies, district-capital conflicts and extreme bureaucracy, more dynamic which would in turn contribute to Budapest's swift development and the reinforcement of its role as a metropolitan and regional centre.

A degree of centralisation and streamlining will most probably be achieved through the retention of the dual municipality system, that is, with the survival of district local governments.

(4.) As regards the role of cities in local government, the organisation of administration and regional development, the Government must have a set of firm ideas. It is key to the transformation of the local government system what role the new Government intends to assign to county-ranking cities.

The category of county-ranking city is a specific element of Hungary's system of local government. It is the economic weight of these cities that raises them above the whole of the local government system and they therefore also serve as economic and development hubs. With the transformation of the system of state administration, county seats, that is, the vast majority of county-ranking cities, simultaneously served as the seats of government offices. Consequently, the creation of important „regional centres”, county seats, is not contrary to the development of counties as units of public administration as these could also serve as educational, cultural and social centres, in addition to economic and administrative priorities. Therefore, this special status under public law does not necessarily create a conflict of interests between counties and county-ranking cities according to the concept of the new Government. On the contrary; strong county seats and county-ranking cities with privileges specific to their status are able to develop the given region in an integrated manner.

## NEW PHILOSOPHY OF THE FUNDING OF LOCAL GOVERNMENTS

Another cornerstone of the transformation of the system of local government is the issue of funding. It may be stated in general that, in addition to the poor structure, inappropriate funding was another factor responsible for the current situation of the sector.

The local government funding concept of the new Government significantly departs from previous practice. The draft identified as the „funding of duties” fundamentally represents two changes in terms of content:

- on the one hand, by differentiating tasks, each local government takes part in the provision of public services in line with its available resources,
- certain duties will be financed centrally, and the system of normative funding would be abolished.

At the same time, based on the Government’s plans, a law would continue to identify the duties to be performed on a mandatory basis, in such a way that the legislator is, in each instance, required to identify and to allocate funds to the given duty.

We must, nonetheless, point out that the system of the funding of tasks and duties will, under any circumstances, represent a restriction on the utilisation of central funds as the State will determine which duties it wishes to support financially. Local governments will consequently have no discretionary powers in the future to determine which duties and tasks they will finance from the funding received.

# Media regulation

## THE CONTEXT: REVISION OF THE REGULATORY ROLE OF THE STATE

The new media laws set new yardsticks in the regulation of the media in Hungary which were heavily criticised on all sides. In spite of the attacks that gradually grew international, the European Commission only requested amendments of a technical nature to the laws which made it clear that the new framework of media regulation in Hungary did not in the least isolate Hungary from European legal principles.

The media law presented a *middle-course* solution, the essence of which is that the new regulation re-constructed the relationship between private interests and public interests. Wherever the need arose, it provided new opportunities for the market, and wherever the necessity emerged, it imposed extra obligations. Therefore, the new system of opportunities and obligations made the media law more permissive and more stringent all at the same time. Regulation became more stringent, inasmuch as it abolished the former, inoperational and weak media authority, simplified the official procedures related to regulation, and transformed the system of sanctions by making them more specific. It became more stringent because it extended the scope of monitoring, enhanced the powers of the authority and embarked upon the improvement of the efficiency of public media, even if at the expense of dismissals.

The intention to create co-regulations, to increase the state subsidisation of community media, to call to life modern, up-to-date advertising rules and to streamline the anti-market-concentration rules and sanctions demonstrate that the rules also became more permissive at the same time.

## NEW YARDSTICKS, NEW COMMITMENTS

### *New yardstick for filtering out privileges: supervision of the press*

The historical traditions of media regulation resulted in the development of a privilege-ridden media system in Hungary from a competition law point of view. Based on the former yardstick, while contents on television contrary to the core values to be protected on a general basis qualified as breaches, these were seen on the pages of a newspaper as the celebrated manifestation of the freedom of the press. Parallel with the full recognition of the freedom of the press, the new yardstick pledged to abolish some of the privileges in the interest of market and social justness. The EU itself did not call into question that the recognition of the generally approved core values also applied to the press.

### *New yardstick of protecting the majority interest: question of hate speech*

With a view to the best interests of the public, the new media law expresses commitment to the increased prohibition of hate speech and pledges to guarantee the protection of fundamental human rights, human dignity, public morals, minors and law and order. At the same time, the new regulation introduces a new approach in this field. The rules in force earlier safeguarded the rights of minorities in general and did not declare the normative imperative of protecting the majority social and community interests. Based on the new yardstick, minorities have the same rights and obligations as the majority members of society as the purpose of representation-based democracy is to enforce the interests of the majority.

### *Settling certain historical shortcomings: new yardstick of registration*

The media law was vehemently criticised on account of the fact that it prescribed an obligation of registration for media service providers. Some saw the new yardstick of registration as the re-introduction of the statutes that existed during the darkest periods of political oppression, in spite of the fact that, in actual fact, the new media law overwrote the provisions of the 1986 press legislation conceived during the years of dictatorship. Under the old rule of law, it was possible to delete a given press product, while the new legislation deprived the authority of this discretionary power.

### *New yardsticks in protecting media consumers: commissioner status and handling of complaints*

The purpose of the regulatory elements aimed at creating the status of Media and Telecommunications Commissioner was to provide more protection for consumers. The post of Commissioner came into being as a problem resolving forum to process the opinions and complaints of consumers related to the media system. It is now a new obligation with respect to the handling of consumer complaints that any member of the public may lodge a complaint against a given media service provider if he or she finds the content published objectionable. In the past, only those were able to raise objections to contents heard or seen in the media who themselves sustained an injury, that is, those who were personally concerned by the programme objected to; in other words, the former legislation fundamentally attempted to resolve problems of this nature from the point of view of private interests, rather than the interests of the public.

### ***Organisational integration: new yardsticks of the operation of public media***

In an organisational sense, the media law significantly centralised the system of public media. The purpose was to create a system which does away with wasteful practices in public media and enhances efficiency. The legislator achieved this on the basis of already existing models. For instance, the Slovak Parliament passed the law on the merger of the Slovak public service television (STV) and radio (SRo) a month before the entry into force of the Hungarian media legislation, while the BBC, too, recently implemented important measures towards organisational streamlining.

## **NEW YARDSTICKS, NEW OPPORTUNITIES**

### ***New yardstick to protect the tools of the media as a profession***

The law previously in force did not protect those supplying journalists with information. The former press law made it theoretically possible for journalists to refuse to disclose the identity of their source of information, however, under criminal law, it was only possible to refuse to make a witness statement in cases where the given person was sworn to secrecy by virtue of his or her vocation. Journalists did not fall into this category in the past and were therefore not protected by law as employees.

### ***New yardstick in professional scope and employee autonomy***

Legislators protected journalists not only against the State but also against owners. The new legislation stipulates that editors and journalists may not sustain a disadvantage on the grounds of refusing to execute an instruction given by the owners of the businesses

they work for that may curtail their professional freedom. The new law establishes that journalists may not be held responsible for breaches committed in connection with obtaining information of public interest; consequently, the law stipulates that social interests take priority over individual political interests. The new legislation therefore declared war, in its own way and with its own tools, on political corruption, the world of loopholes and the system of abuses and malpractices. The creation of the framework of related regulations, too, served to enhance the independence of the press.

### ***Expectations and the streamlining of sanctions as a new yardstick***

The law cannot oblige media service providers to suspend their broadcasts as a legal consequence arising from the violation of the obligation of providing balanced information; under the rules of law, media service providers may only be instructed to disclose a statement regarding the breach or to provide space and time for the position concealed. It is a new opportunity for the media market that media service providers are not required to be balanced within a single programme; it is sufficient if the entirety of the series of programmes or the given flow of programmes is impartial. The rules of media concentration changed in a positive direction. The old legislation automatically intervened in market processes even when no monopoly of information actually came into being. The new regulation only prohibits cross-ownership if the degree of the resulting monopoly actually violates the requirement of providing varied information presenting all sides.