



Ms. Ursula von der Leyen
President of the Commission

Brussels, 26 April 2021

Dear Madam President of the Commission von der Leyen,

We would like to call your attention to the fact that according to the latest version of the Hungarian national plan under the Recovery and Resilience Facility available on the government webpage¹, 20% of the funding will go to the modernisation of universities component. With this letter, we would like to express our strong concern that **this would result in 20% of the funding to disappear in opaque funding structures which are exempt from budgetary control standards and which have the purpose of further destroying academic freedom and institutional autonomy in Hungary.**

Several amendments in the package of the 9th Amendment to the Fundamental Law of Hungary, adopted in December 2020, are highly relevant in this regard, namely Article 39(3) entrenches a new, narrower definition of public funds as, “the revenues, expenditures and receivables of the State” and Article 38(6) that reads as follows: “the establishment, operation and termination of „public interest asset management foundations with a public purpose”² as well as the performance of the public tasks of such foundations shall be regulated in a cardinal law.” The concept of „public interest asset management foundations”³ was introduced by Act XIII of 2019 and became the format to which a number of higher education institutions were transformed into. With the introduction of the concept of „public interest asset management foundations with a public purpose” into the Fundamental Law, Act XIII of 2019 was also amended to reflect the creation of this subcategory. Annex 1 of the Act lists those 14 foundations that have been granted the status of “public interest asset management foundations with a public purpose”, many of which have been endowed by the legislature with public assets of very large value.

Today, of the fourteen institutions presently listed in the statute as public interest asset management foundations with a public purpose, **eight are universities, most transformed into this status within the last six months.** The leading bodies of these foundations have been and will be nominated by the responsible minister and, according to media reports available, are and will be largely composed of Fidesz politicians with the addition of some other government-affiliated actors. At the same time, the main requirement for such reform, namely that there are other financing partners involved is not there: the financial ties to the

¹ [Helyreállítási és Ellenállóképességi Eszköz \(RRF\) | Széchenyi 2020 \(gov.hu\)](#)

² közfeladatot ellátó közérdekű vagyonkezelő alapítvány

³ közérdekű vagyonkezelő alapítvány

state are maintained, the university will still be dependent on budgetary allocations to the foundation, as it will persist to be its main source of income.

The Minister of Innovation and Technology submitted several Bills to Parliament on 31 March 2021 that would further cement these opaque structures. Bill T/15710 would, among others, provide for the possibility to transfer the right to appoint members of the Board of Trustees from the Founder (in practice, the Government) to the Board of Trustees itself without the possibility to revoke this transfer once it has taken place. The proposal would also establish that should the public purpose for which assets were transferred (for free) by the State to these foundations cease, the assets could only be repurchased by the State. Furthermore, the Bill would authorise the foundations to manage their funds freely and undertake economic activities that are not directly aimed at realizing their respective public purposes, which severely restricts the foundations' accountability for the ways in which they manage and use their assets. Bill T/15728, also submitted by the Minister of Innovation and Technology, would, among others, forfeit the right of the appointment and all other rights associated with the Founder of the entities to the relevant Boards of Trustees in the case of the fourteen already existing foundations. Further bills, submitted by the government, would create another almost 20 such foundations.

The above mean in our view that the state is creating de facto private universities under Hungarian public law ceding all rights to the governing body of the foundation. Under the new legal status that these universities have, EU funds going to them will be shielded from public scrutiny.

Therefore, in a context where the Hungarian government **uses these opaque funding structures to better access EU funds, whilst at the same time further destroying academic freedom** it is essential to understand component B of the draft national plan taking into account the above mentioned. **We call on the Commission to deem any plan submitted by Hungary that contains a component to channel funds to the above described structures, equal or similar to the one publicly available, inadmissible as the plans need to comply with EU law and in particular Article 13 of the EU Charter of Fundamental Rights.**

We are convinced that the EU needs to take firm action to prevent funds from disappearing in opaque financing structures and stop the systemic dismantling of academic freedom in Hungary happening in front of our eyes. It most certainly cannot positively contribute to the process.

Best wishes,

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