



# State-owned enterprises in the Hungarian economy: what model follows from the law?

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## Abstract

**Aim:** This paper examines the fundamental constitutional and legislative rules regarding the state's involvement and the state's ownership in the Hungarian economy. It aims to establish what model follows from the relevant rules regarding the place and the role of state-owned enterprises in the national economy, in particular whether they are subjected to the multiple and complex considerations that became to characterise the state-owned enterprise sector in Europe after the global financial and economic crisis. Previous political economy research has established that state-owned enterprises are now driven in many national jurisdictions by factors beyond their public mission and public interest tasks, which include in particular objectives of strategic nature. Research of the political economy of Hungarian capitalism has highlighted similar developments in Hungary. We aimed to examine whether the applicable legal framework confirms the findings of political economy research.

**Methodology:** Our research was doctrinal legal research combined with evidence collected regarding developments in the Hungarian market for state-owned enterprises. It was framed by providing an overview of the state of the art in the political economy research on state-owned enterprises in European economies before and after the global financial and economic crisis, and in the political economy research on the Hungarian market economy and state-owned enterprises therein before and after the political landmark year of 2010.

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**Findings:** Our research has found that although the fundamental constitutional and legislative provisions governing the state's involvement and the state's ownership in the Hungarian economy establish only a rough framework, the law indeed reflects the model preferred for the national economy and state-owned enterprises therein, and gives expression of a model change. However, since the law may only provide the fundamentals of the preferred economic model, leaving the choice and the development of details to politics and policy-making, our assessment had to be supported with evidence of actual nationalisations and re-nationalisation in the Hungarian economy. Nevertheless, our analysis of the applicable legal rules has revealed that the Hungarian SOE landscape is influenced by complex, often strategic interests and other factors, beyond their traditional public interest roles.

**Value:** By examining the legal rules governing the state's involvement and the state's ownership in the Hungarian economy, our research provides an important contribution to the already existing political economy scholarship on state-owned enterprises, as well as on changes in Hungarian economic policy. The applicable legal rules provided our main evidence, which were supplemented with evidence of market developments, which combination of evidence in the research on state-owned enterprises in Hungary holds considerable added-value.

**Keywords:** state-owned enterprises, regulation, constitutional law, economic policy

## Introduction

State-owned enterprises (SOEs) play a complex role in national and regional economies, as well as in the global economy. Subject to considerable differences in different economies, they form an important part of national economic and industrial policy and strategy, serve as a key pillar of the policy on public services, and play a role in other policies, such as energy or environmental policy. After three decades characterised by market liberalisation, which were often coupled with the privatisation of public assets, national governments in Europe have rediscovered SOEs as strategically important operators in the national economy. In Hungary, the period following the global financial and economic crisis, especially after 2010, was marked by increasing state involvement in the economy which was anchored in constitutional provisions and in general legislation. The state's involvement manifested in diverse forms of state economic intervention, such as monopolisations, price regulation and price freezes,

and state ownership. These developments indicate the emergence of a novel, restructured form of capitalism in Hungary, which is increasingly state-coordinated, and in which the ownership of assets, as well as of certain economic operators by the state is a public objective of strategic relevance. In this economic framework, SOEs bear a special value because of their public mission and their essential public interest tasks, and also as peculiar agents of national economic and social development and resilience.

In this article, we aim to examine the legal framework governing the state's participation in the national economy, in particular in the form of SOEs, and analyse what place and role the law provides for SOEs in the Hungarian economy. Political economy analyses of SOEs have distinguished different models and, with that, different positions and roles of SOEs in different economies. In the period following the global financial and economic crisis, SOEs have been entrusted with functions beyond their traditional public mission and public interest tasks, and have become instruments of national industrial, technology and other strategic policies. We will use these research results as the basis of our assessment of the Hungarian legal rules, aiming to establish what model they establish for the national economy and what rationales and objectives they assign to SOEs therein. Our article is structured as follows. First, we will provide an overview of political economy analyses of SOEs with a special focus on their position in different national economies. This will be followed by a short survey of the political economy analysis of the Hungarian economy and SOEs therein following the landmark years of 1989 and 2010. These provide the background in the next part of our analysis of the constitutional regulation of the Hungarian state's involvement in the national economy, as well as the constitutional and legislative provisions governing state ownership in Hungary. We will also use the legal provisions to map the Hungarian SOE landscape. We will close our analysis by adding evidence from the past decade and a half regarding re-nationalisations and nationalisation in the Hungarian economy.

## **State-owned enterprises in national economies**

In the economics and the political economy literature, SOEs have been researched and analysed from multiple perspectives. Previous research has examined their effectiveness and productivity as market participants (Castelnuovo et al., 2019; Mühlenkamp, 2015), their participation in the global economy (Clò et al., 2015; Clò et al., 2017a; Del Bo et al., 2017; Florio et al., 2018), as well as the responsible operation and corporate governance of SOEs (Brennan

& Solomon, 2008; Jia et al., 2019; Sappideen, 2017; Tang et al., 2020). Further areas of research included the general welfare aspects of SOEs (Del Bo & Florio, 2012), their contribution to achieving their public interest objectives (Bance, 2015; Clò et al., 2017b), and their relationship with consumer and citizen interests (Lampropoulou, 2020). Research has also explained why SOEs have remained part of capitalist economies and why national governments have recently rediscovered SOEs as strategic operators in the economy. In this regard, Florio (2013) identified two major factors. First, SOEs provided the limits of national policies of privatisation and liberalisation, which relied on the assumption that publicly owned enterprises perform worse as business organisation than private companies, and, at the same time, served as a reaction to those policies and their negative socio-economic implications. Second, following the global financial and economic crisis, SOEs became important components of national policies that aimed at reinforcing the economic, social and general institutional resilience of states.

Regarding the regained popularity of SOEs with national governments and why governments decided to reconsider the merits of privatisation and the private ownership of economic operators, research highlighted that SOEs have become important vehicles for the implementation of public policy and regulatory objectives, have been used to carry out fundamental structural reforms in the given economic sectors, and have allowed governments to respond to the needs of citizens as users of the services offered by SOEs (Hall et al., 2013; Haney & Pollitt, 2013; O'Donnell & Sawyer, 1999). The re-nationalisation and re-municipalisation of certain utilities and public services in the years following the global financial and economic crisis were assessed as choices made by national governments to bolster socio-economic resilience in their countries by offering citizens cost-effective essential (public) services and protecting citizens/users from unaffordable prices for such services (Hall et al., 2013). The rediscovery of SOEs in contemporary capitalist economies have also been linked in the literature to national governments rediscovering the original, essential feature of SOEs: that they operate in markets under a concrete public mission, and since SOEs take their public mission seriously, they perform at least as well as private enterprises in fulfilling that mission (Florio, 2014; Polidori & Teobaldelli, 2013).

Research has highlighted that SOEs operate as special kind of economic operators that pursue normative criteria beyond purely economic objectives (Bernier, 2014; Bernier & Reeves, 2018). They act as instruments of economic and other public policies, as agents for the delivery of non-economic, essentially public goods and values, such as solidarity, sustainability, the quality and availability of a non-economic (public) service, public accountability, transparency and participation in

affairs in the public interest, equity, and generally the ethos of the public and the public domain (Bernier, 2014; Bernier & Reeves, 2018). As analysed by Florio (2014), SOEs operate in an environment in which people – as users and as citizens – regard both their economic and non-economic performance as important, and expect that SOEs perform their public mission to the benefit of society at large. Citizens and the state consider SOEs as vehicles of macroeconomic and redistributive policies to achieve objectives, such as controlling inflation, securing access to public services, securing employment, or achieve counter-cyclical spending, and as instruments available to realise certain “national interests”, such as stewardship over national industry and markets, investment in strategic or in fledging economic sectors, or protecting national security interests in sensitive industries or in essential technology markets (Sorrentino, 2020).

Traditionally, SOEs have been conceptualised as instruments of government planning that are capable of addressing market failures, such as the problem of public goods and externalities (Heal, 1973). They were usually favoured by social welfare maximising governments that introduced robust planning frameworks and robust frameworks of public services (Del Bo & Florio, 2012). The rediscovery of SOEs in contemporary market economies has been linked to the revival of state capitalism and the emergence of new forms of “state-enhanced” (Schmidt, 2003) capitalism amidst concerns for protecting the nation’s economic, technology, public, national etc. security and sovereignty (Clò, 2020). Alternatively, in case the SOE and its market are controlled intimately by the government, the revival of SOEs has been analysed as driven by interests to secure domestic and non-domestic political or other strategic gains (Bremmer, 2009 and 2010). For example, in certain national economies SOEs are expected to fill the role of national champions (Szanyi, 2019b), and may also be driven to enter foreign markets competing there as a private enterprise and exerting economic and political influence (Clò, 2020). Research has also highlighted that the contemporary revival of SOEs is subject to considerable variation in different national economies, as the priorities established for SOEs in the given national context depend on the particular organisation of the national economy (Clò, 2020).

## **State-owned enterprises in the Hungarian economy**

The Hungarian market economy, which emerged from post-socialist transition and the global financial and economic crisis, can be characterised as a semi-periphery variant of capitalism that pursues as its priority objective socio-economic

convergence towards developed capitalisms (Geröcs, 2021). Using another terminology, it is a dependent market economy that is characterised by asymmetric interdependency in regards developed capitalisms as a matter of access to investment and technologies that are crucial for economic development (Farkas, 2018; Nölke & Vliegenthart, 2009). Following the exhaustion of the development model of economic liberalisation and foreign direct investment around 2008-2010, the Hungarian economy switched to a so-called hybrid accumulation model (Geröcs, 2021; Nölke & May, 2019; Szanyi, 2019c; Voszka, 2013). The new model aims to lower the dependence on foreign capital for investment, although not in the exporting industries producing tradeable goods and in the domain of geopolitically important foreign investments, and it offers protection of national capital and its owners from external competition (Geröcs, 2021; Nölke & May, 2019; Szanyi, 2019c; Voszka, 2013). The new model is not without problems. In particular, it is constrained by its continuing dependence on foreign technology and foreign investment (Geröcs, 2021). Furthermore, despite its need for foreign investment, the model promotes and protects national ownership, especially national capital ownership, and it uses the state and its law to serve the interests of national ownership and capital amidst pressures and dependencies rising from economic globalisation and regionalisation (Geröcs, 2021).

State ownership and SOEs in the Hungarian economy have been analysed as an evitable characteristic of a dependent market economy in which the state is pressured to take up the role of the so-called “developmental state” (Szanyi, 2019a). In the period of post-socialist socio-economic transition, state-ownership was contested by the then preferred and prevailing model of economic development which gave priority to privatisation and market liberalisation (Szanyi, 2019a). In this period, the traditional public interest tasks and properties of SoEs were overshadowed (“largely replaced”) “by the political and institutional goals of transition policies” which subscribed to the neoliberal, free market ideology (Szanyi, 2019a). Following the global financial and economic crisis, around 2008-2010, the Hungarian economy experienced a significant paradigm shift and became characterised by so-called “economic patriotism” (Szanyi, 2019a). This also meant a change for state ownership and SOEs, which were revisited and reassessed in politics and policy-making, and were integrated into policies aiming to strengthen national presence (in particular, national capital ownership) in the economy and to prevent, or possibly reverse, the internationalisation of the national economy (Szanyi, 2019a; Voszka, 2015, 2018, 2020). As analysed controversially by Szanyi, during these changes the rediscovery of state ownership was not driven by interests to reinstate its public mission, but rather by the particular considerations of economic and industrial policy

(Szanyi, 2019a). The core public functions of state ownership and SOEs were overshadowed by matters of high strategy and strategic gains, mainly in economic development (Szanyi, 2019b).

## **The regulation of the economy and state-owned enterprises therein in Hungarian law**

The political economy analyses of SOEs, in particular those regarding developments after the global financial and economic crisis, and of the Hungarian market economy have revealed a complexity of factors, trends and imperatives characterising the involvement of states in the national economy. The public interest is just one of these components, and the public interest objectives surrounding state involvement and the operation of SOEs have been interpreted broadly including considerations of strategic nature. In the following, we will examine how Hungarian law used to govern in the period after the regime change and it governs now in the period after 2010 the involvement of the state in the national economy. Admittedly, the law, especially the fundamental constitutional and legal provisions we will examine next, cannot express the complexities of the policy environment, and, arguably, it should not prevent the political process and policy-making from determining the relevant factors and objectives. Our aim is to establish whether the relevant legal rules lay down a certain trajectory, or model for the Hungarian economy, and whether they indicate what priorities influence the operation of SOEs in Hungary.

The constitutional provisions adopted in the period of post-socialist transition, which were subsequently replaced in the beginning of the 2010s by the rules of the Fundamental Law, aimed primarily at laying down the constitutional-legal foundations of a novel socio-economic order and thus enabling transition from the already changing<sup>1</sup> economy of state socialism to a market economy. Establishing a market economy was recognised as a constitutional objective, which objective was addressed predominantly to the state in the curiously formulated Article 9 of the 1989 constitution.<sup>2</sup> In the Constitutional Court's basic definition, the market economy – regulated in Article 9 as the preferred form of socio-economic organisation – is based on the freedom of enterprise and the

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- 1 As landmark development in pre-1989 economic transformation, alongside other measures of business and economic regulation, Act VI of 1988 on Business Organisations was adopted to recognise the private business enterprise in its different forms as an entity with legal capacity in the socialist economy.
  - 2 „The economy of Hungary is a market economy [...]. The Hungarian Republic recognises and supports the right to engage in an economic activity and the freedom of economic competition.”

freedom of economic competition, has a plural structure of ownership and offers equal protection to the different forms (private and public) of ownership, and is characterised by the separation of the state (the administration) and the market, as well as by the separation of the public and the private (ownership) functions of the state (Decision 59/1991. (XI. 19.) of the Constitutional Court).

The Constitutional Court soon clarified that Article 9 had a predominantly declarative function (i.e., “it declares that the Hungarian economy is a market economy which also relies on the benefits of economic planning”), and its normative function involved providing constitutional protection to specific concrete manifestations of a market economy only, such as the freedom to contract (Decision 13/1990. (VI. 18.) of the Constitutional Court). The right to property was recognised separately in Article 13(1).<sup>3</sup> Thus, constitutional protection for the fundamental right, which had particularly importance in the social and economic transition process,<sup>4</sup> did not have to follow from Article 9. Nevertheless, Article 9 was not completely devoid of normative relevance as it anchored the principle that public and private property enjoy equal legal status and have access to equal legal protection. With this provision, state or “social” property lost the priority position over private property that it had been guaranteed under socialist rule. In reality, by the 1980s private property had gradually regained its presence, although often through informal means, and by 1989 the Hungarian economy was characterised by a hybrid property regime including both state and private property.

The constitutional text also regulated the role of the state in the national economy assigning it considerable positions in the market economy envisaged under Article 9. Article 10 held that the state can be the owner of property, making it part of national “wealth”, which ownership may be exclusive over certain property defined in legislation. It also regulated the prerogative of the state to monopolise certain economic activities. Arguably, the state’s prerogative also extended to the choice of operating such monopolies, for example directly by the state, or indirectly through concessions given to private operators. Article 11 recognised the existence of SOEs. It ordered that they operate independently subject to conditions and their responsibility established in legislation. The constitutional provisions, apart from laying down the fundamentals of (transition

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3 The expropriation of private property (by the state) was subjected to the conditions that it must be exceptional, in the public interest, and provided in law, and it must be subject to complete, unconditional and instant compensation (Article 13(2)).

4 In the original interpretation of the Constitutional Court, the right to property as a fundamental right provides the material basis of the autonomy of action of individuals (Decision 64/1993. (XII. 22.) of the Constitutional Court).



towards) the market economy, did not establish a concrete direction regarding the state's involvement in the national economy. However, the transitioning Hungarian state was actively pursuing a policy of privatisation of state property and assets. As set out in Act XXXIX of 1995 on the disposal of business assets owned by the state, official policy favoured economic and market conditions that were based on private property and the decreasing of state ownership.

The regulation of concessions, which took place early in the transition period in 1991, suggested a similar direction for state policy. The explanatory memorandum of the act on concessions (Act XVI of 1991) explicitly mentioned that the maintaining of state monopolies remained necessary only in a narrow area within the developing Hungarian market economy, in particular where the state was expected to guarantee and maintain certain public service), or the state was the exclusive owner of the relevant assets. Generally, the purpose of the act, as assessed by the Constitutional Court, was to ensure that the economic areas monopolised by the state are operated effectively in accordance with the principles of the market economy (Decision 981/B/1991 of the Constitutional Court). It added that the act realised this objective by allowing and regulating the participation of private economic operators and thus ensuring competition in these areas of the national economy (Decision 981/B/1991 of the Constitutional Court). However, the measure did not trust private economic operators blindly. Indicating a certain caution towards foreign investors, it required that the concession holder establishes a separate concession company under Hungarian law. The requirement enabled the state to monitor – in national jurisdiction – the performance of the tasks, including the possible public interest tasks undertaken by the concession holder. Monitoring by the state could ensure that the necessary resources were at the disposal of the concession holder, and it could thus guarantee the continuous delivery of its activities.

These fundamental legal provisions created an open framework for the transitioning Hungarian economy, in which the fundamental choices were left to politics and policy-making. Nevertheless, by laying down fundamental principles, such as the protection of private property and its equal legal treatment, and a legal framework which enabled the withdrawal of the state from the economy and fostered private entrepreneurship, the legal rules examined arguably favoured an economic model which relies on investment coming from private, characteristically foreign economic operators. It must be emphasised, however, that the public interest and the reasons of the state were not abandoned completely, in favour of private economic interests. The adoption in 2007 of the act on national assets reaffirmed the importance of public interest considerations. The act (Act CVI of 2007 on state property and assets) was adopted almost 20

years after the introduction of the previously analysed legal provisions, when the privatisation process was officially closed. In this sense, its setting of public interest objectives, such as the objectives of protecting state property and assets, and of managing state assets in the long-term benefit of the nation, came as an attempt to readjust previous policy. Arguably, this change may be interpreted as Hungarian law recognising that the economic model favoured in the previous period had been exhausted. The act, which put forward mainly rules of technical-administrative nature, provided that the management of state assets and property must enable the performance of state tasks, the meeting of common social needs, and the realisation of national economic policy. Similar principles were established in regards the transfer of usage and utilisation rights in a contract to a third party.

After 2010, marked among others by the adoption of the Fundamental Law, the period of post-socialist transition was left behind. This meant that the focus of the constitutional and other legal provisions of the new era was different from that of the provisions which launched the lengthy and uncertain process of transition towards a market economy. The Fundamental Law abandoned the transitional aim of the 1989 constitution in particular by omitting the market economy as an explicit constitutional objective. After 20 years of economic transition, which also included in 2004 accession to the European Union and the advanced capitalist economy that is the EU's internal market, there was no further need for that transitional objective in the constitutional text (Decision 3192/2012. (VII. 26.) of the Constitutional Court). As an alternative interpretation, the market economy losing its status as a constitutional objective may also be regarded as a sign of a major shift in the regulation of the national economy and the state's involvement therein (see Drinóczi, 2021).

However, based on the other provisions of the Fundamental Law, such a major shift in economic ideology is not readily apparent. Article M of the Fundamental Law holds, mimicking the general framework established in the previous constitutional arrangement, that the Hungarian economy is based on the freedom of enterprise and the obligation of the state to provide the conditions of economic competition. In the interpretation of the Constitutional Court, the freedom of enterprise and economic competition, which latter is a central manifestation and "essential value" of the market economy as a socio-economic order (Decision 3192/2012. (VII. 26.) of the Constitutional Court), play a constitutive role (Decision 3175/2013. (X. 9.) of the Constitutional Court), and they together provide the basis of the freedom of contract, which latter fundamental freedom is given constitutional protection (Decision 3192/2012. (VII. 26.) of the Constitutional Court). It emphasised that through the constitutional protection

of the freedom of contract, as its concrete manifestation, the market economy itself is given protection under the Fundamental Law, despite omitting the term “market economy” from the constitutional text (Decision 3192/2012. (VII. 26.) of the Constitutional Court).

As the 1989 constitution, the Fundamental Law includes the right to property and the freedom to pursue an economic activity, which are formulated in Articles XII and XIII in the same way as their previous formulation. Article 38 regulates the state’s role in the national economy, and it recognises – similar to the previous constitutional text – the state as the owner of property and the exclusive ownership of the state of certain property. Article 38 also covers SOEs and the right of the state to monopolise certain economic activities. However, SOEs are regulated in more detail as Article 38 requires them to operate independently and responsibly, according to the law, and subject to the requirements of lawfulness, expediency and effectiveness. The latter principles, for example the requirement of responsible operation, indicate that in the Fundamental Law’s economic constitution public interest considerations are given a more evident emphasis. As another similar sign, Article M was interpreted by the constitutional court, having regard to the explanatory memorandum attached to the legislative proposal on the Fundamental Law, that it does not recognise economic competition as an absolute objective, but rather as an objective subject to reasonable limitations in the public interest (Decision 3175/2013. (X. 9.) of the Constitutional Court). The later introduced Article 38(6) recognised the so-called public trust funds performing a public function, which are regulated as public actors entrusted to use the state assets transferred to them to carry out specific tasks in the public interest.

Article 38 also addresses the management and the protection of “national wealth” (state and local council property and assets), and it makes them subject to public interest considerations. It holds that “national wealth” must be administered and protected having regard to multiple public objectives, namely the serving of the public interest, meeting common social needs, the protection of natural resources, and safeguarding the interests of future generations. Regarding the disposal (the privatisation) of state held property and assets, which are regulated as having special importance for the national economy, Article 38 imposes specific restrictions and conditions with the purpose of ensuring that the earlier enumerated public interest objectives are not jeopardised. It also provides specifically that the disposal of state held property and assets may only take place for purposes defined in legislation, subject to exceptions laid down in legislation, and having regard to the requirement of proportionality of value. Overall, the general provisions of the Fundamental Law do not provide a radically different framework for the Hungarian market economy and the role of

the state therein, although the Fundamental Law expresses considerations in the public interest more prominently. However, in light of the direction set by the 2007 legislation on national assets, the latter change is neither entirely novel, nor particularly revolutionary. Furthermore, the provisions which enhance the protection of the public interest impose limitations on what the state may do, and not how it should shape the national economy.

Both the 1989 constitution and the Fundamental Law provided an only rough framework for the state's involvement in the economy and the place and the role of SOEs therein, neither of which were able to express the complexities that may be at play. Among the Fundamental Law's relevant provisions, Article 38 is the most expressive. The fact that it addresses state ownership in such detail, emphasising its strategic objectives, may be regarded as an indication that state ownership and SOEs have a place and play roles in Hungary's economy after 2010 that are more strategic than taking care of the public interest. The new act on national assets (Act CXCVI of 2011), which was adopted in the same year, may support this assessment of the Fundamental Law. The legislation placed a strong emphasis on the public interest components of state asset management. It provided a detailed definition of national assets, listing in particular the so-called national data asset, greenhouse gas emission allowances, and other "things", assets and rights with proprietary value owned by the state and local councils. It defined the purpose of public ownership as securing the delivery of public tasks, including in particular the provision of public services to citizens and making available the infrastructure necessary to that end [Section 7(1)].

The act also laid down the principle, among the complex set of principles governing asset management and asset disposal, that the use and utilisation of state-owned assets must serve the public interest and must meet the common needs of society [Section 7(2)]. Further public interest principles identified in the act include the requirement that asset management needs to be sustainable and must protect natural resources, it must maintain and protect national values, and must ensure that the needs of future generations are met. The act's commitment to the public interest is also reflected in the supposedly exhaustive definition of which assets belong to the exclusive ownership of the state, which assets are assets that bear special importance in the national economy, and which assets are transferable subject to concrete and detailed restrictions. The act defines state ownership in certain SOEs as an asset bearing special importance in the national economy, and subjects the transfer state ownership in certain other SOEs delivering certain public service tasks to the restriction that state ownership may only be transferred to local councils, or exceptionally to an undertaking in the exclusive ownership of the state or local councils.

In order to establish whether the provisions of the 2011 national assets act reinforce the corresponding provisions of the Fundamental Law, and thus provide a complex, strategically oriented regulation of SOEs in the Hungarian economy, we need to examine the provisions of the act that give a detailed account of the Hungarian SOE landscape. Under its category of state ownership which has special importance in the national economy, the 2011 national assets act lists: state water utility companies, state forestry companies, companies responsible for the protection of cultural, environmental and genetic heritage, the state gambling and betting monopoly, the regional development holding agency, the Hungarian Post Group (under a complex public-private ownership structure), the MÁV Group (transport by railways), the Volánbusz Group (transport by road), the MVM Group (energy and related industries), the Hungarian Export-Import Bank, the Hungarian Development Bank, the Magyar Nemzeti Vagyonkezelő Zrt. (the state asset management company), the Hungarian Roads Corporation, the Hungarian Infrastructure-development Company, the Hungarian Tourism Company, and (until 2022) the National Waste Management Coordination Company. SOEs in Hungary are controlled by the Magyar Nemzeti Vagyonkezelő Zrt. Other SOEs include the Hungarian road toll company and the Hungarian mobile payment company, and the Nemzeti Infokommunikációs Szolgáltató Zrt. Group (information technology).

The economic activities listed in the act as activities monopolised by the state under its constitutionally recognised prerogative indicate the areas of activity of SOEs in Hungary. They include for example transportation by or storage in a pipeline, the production and sale of radioactive material, the establishment and operation of sewage pipelines and water public utilities, the organisation and the provision of betting and gambling services, transport by rail on the main railway network, the scheduled transport of persons on road between localities, the establishment and the operation of the state-owned international commercial airport and the directly related services, the establishment and the operation of the national road network and the railway network owned exclusively by the state, the establishment and operation of public parks, the establishment and operation of security natural gas storage facilities, the operation of the unified system of public services supplied electronically, and the state waste management task.

Based on these provisions, SOEs cover a significant part of the Hungarian economy, thereby maintaining domestic and excluding non-national presence in the sectors affected. They thus have the potential to reverse the internationalisation of the Hungarian economy advanced in the previous decades. The relevant provisions, including those which define public data as a national asset forming part of the national data asset, also confirm that some of the public tasks assigned to Hungarian SOEs have evident security and socio-economic

resilience implications, others bear relevance from the perspective of environmental sustainability and possibly climate resilience, and again others have an evident (not necessarily exclusive) commercial character and are capable of generating revenues for the state. Some SOEs serve as vehicles of state economic development and industrial policy. As a further component of the complex rationales surrounding the operation of SOEs in the Hungarian economy, legislation in 2012 (Section 81, Act CLXXXV of 2012) ordered that some SOEs, predominantly those that provide public services to individual users, must operate as not-for-profit entities. The not-for-profit operation state-owned public services was explained in Government Resolution 1465/2014 as a requirement following from the principles of solidarity, sustainability and efficiency. These principles can be regarded as rationales sought by the government for SOEs in certain parts of the national economy.

## **State-owned enterprises and developments in the Hungarian economy after 2010**

The complexities regarding the place and the role of SOEs in the Hungarian economy, as transformed following the landmark year of 2010, can be further explored, when developments in this period affecting state ownership are examined. As set out in economic planning documents, such as the *Új Széchenyi Terv*, the *Széll Kálmán Terv*, and the National Convergence Programmes, which openly prioritised the “strengthening of national sovereignty” in strategic sectors of the national economy (Geröcs, 2021), the re-nationalisation or nationalisation of certain industries became a central policy objective (Geröcs, 2021; Voszka, 2013). As claimed by Voszka (2018), re-nationalisation through share acquisition between 2010 and 2018 amounted to 1304 billion HUF, the large majority of which financed the acquisition of shares in Hungarian enterprises from non-Hungarian owners. The sectors affected included public utilities (e.g., Suez-RWE, GDF, TDF, RWE, E.ON), telecommunications (e.g., Magyar Telekom) and energy, both using territorially-bound infrastructure and constituting a non-tradable market, some manufacturing (Rába and Bombardier), and parts of the financial services sector (DZ Bank, GE, and a part of Erste Bank) (Geröcs, 2021). MKB Bank and Budapest Bank were acquired by the state during the financial and economic crisis, and were later integrated, together with Takarékbank, into the holding corporation, Magyar Bankholding Zrt. The state is an owner in Magyar Bankholding though its Corvinus International Investment Fund, operated by the SOE, Corvinus Nemzetközi Befektetési Zrt.

The new wave of re-nationalisation and nationalisation, which focused on the domestically oriented areas of the national economy and avoided export industries capable of generating growth and added-value, thus maintaining the division that became to characterise the mixed model of Hungarian capitalism emerging after 1989 (Gjersem et al., 2004; OECD, 2004; OECD, 2014), included the textbook market for the national system of public education. It was monopolised by the state in Act CXXXII of 2013, which measure entrusted a state-owned not-for-profit enterprise (KELLO Kft.) with the distribution of the textbooks published in Hungary. Antenna Hungária Zrt., the formerly state-owned terrestrial and satellite broadcasting and wireless communications company, was purchased by the state back from its French owners in 2014. The company was acquired by the state in an open tendering process, and is now controlled by the SOE named Nemzeti Infokommunikációs Szolgáltató Zrt. As disclosed by the latter SOE, the acquisition took place in accordance with the National Infocommunications Strategy and the government policy aiming to place utilities in public ownership (URL1).

In 2021, the government established the Nemzeti Védelmi Ipari Innovációs Zrt. This holding company controls the state-owned defence companies HM Arzenál, HM Currus, and HM ArmCom, which provide background services for the Hungarian military, such as weapons maintenance and manufacturing, and estate management, and the previously re-nationalised Rába Nyrt., which has been operating as a defence sector supplier. The civil aviation SOE, Hungarocontrol Zrt. was also integrated into the defence industry holding.

In 2013, MVM, the state-owned national energy group, and the Nemzeti Infokommunikációs Szolgáltató Zrt. established the so-called national telecommunications core network (URL2). The network, which is operated by an MVM subsidiary, MVM NET Zrt. using the free capacities of its national fiber-optic telecommunications network, which was established to serve the national electricity grid, is available, through the Nemzeti Infokommunikációs Szolgáltató Zrt., to state institutions, including the government, the ministries, the central state bodies, the electoral system, the regional government offices, local councils, and public health care and education institutions. The water utility, Budapest Water, was placed back into public ownership, when in 2012 the city of Budapest bought the minority shareholdings previously acquired by Suez Environnement and RWE. The natural gas business of E.ON was re-acquired by the state in 2013 and was integrated into the MVM Group, through the Magyar Földgázkereskedő Zrt. and the Magyar Földgáztároló Zrt. The business operation was originally owned by MOL Nyrt., the partly privatised former state monopoly in the oil and gas sector. It sold it to E.ON after running into losses

following the state's decision to regulate prices in the sector. The 21.2% shareholding of Szurgutnyeftegaz in MOL Nyrt. was purchased by the state in 2011. The shareholding was originally acquired by the Austrian ÖMV, as part of its plan in the 2000s to merge with MOL and the Croatian INA. ÖMV aborted its plan when its further acquisitions in MOL were prevented. It sold its holding in MOL to Szurgutnyeftegaz.

In 2011, following the provisions of Act CLV of 2011, the market for tax-free remunerations (non-salary allowances) by public and private employers in the form of paper and electronic vouchers was dismantled, and a state-owned monopoly was established for the issuing of paper vouchers. For electronic vouchers, a new market was created under Act CLVI of 2011, entry to which was *de facto* reserved in regulation for the three large banks domiciled in Hungary. After legal procedures at European Union level, the latter restrictive rules were abandoned in Government Regulation 76/2018. The partial nationalisation of the private pensions market affecting the private tier of the mandatory pension system took place in 2010-11. Acts C and CI of 2010 suspended for a year the payment obligations of client and offered them the choice of leaving the private tier of the mandatory pension system and returning their savings back to the public tier. Act CLIV of 2010, which was subsequently repealed by Act CX-CIV of 2010, ordered that the remaining clients of the mandatory private tier may lose their entitlements in the public tier, unless they return their savings to the latter. The assets affected amounted to around 10% of the GDP, and the state acquired the ownership of a substantial and diverse portfolio of securities, including corporate shares and bonds (Szanyi, 2019a).

In the energy markets, by 2022 Hungary re-nationalised the previously privatised communal supply of natural gas and electricity (the universal service). In 2015, under Regulation 7/2015 of the Ministry for National Development the state monopoly, the First National Public Utility Corporation was established. It acquired the territorial natural gas supply monopoly, FŐGÁZ and the electricity supplier, DÉMÁSZ. After being rebranded as the National Public Utilities Corporation (NKM Nemzeti Közművek Zrt.), it consolidated its portfolio, which now includes NKM Energy (previously NKM Electricity (previously DÉMÁSZ) and NKM Natural Gas (previously FŐGÁZ), other natural gas and electricity companies, and district heating. The corporation forms part of the MVM Group and is owned jointly by the state-owned MVM and the state. In 2022, MVM acquired the universal electricity supply operations of E.ON. The MVM Group's portfolio includes power stations (natural gas, coal, nuclear, solar, hydro), natural gas importation, natural gas storage and security storage, the electricity system operator (MAVIR Zrt.), the natural gas system operator



(FGSZ Zrt.), energy services, natural gas transmission and supply, electricity transmission and supply, CNG, energy infrastructure, public lighting services, mobility services, and energy trading. The group is present in Romania (power generation, electricity trading), Austria (natural gas and electricity trading), Slovakia (natural gas and electricity trading), Czech Republic (natural gas and electricity trading, technology services, natural gas supply, electricity supply), Croatia (natural gas and electricity trading), China (industrial cooling), France (electricity trading), Bulgaria (electricity trading), North-Macedonia (electricity trading), Poland (electricity trading), Montenegro (electricity trading), Germany (electricity trading), Italy (electricity trading), Switzerland (electricity trading), Serbia (electricity trading), and Slovenia (electricity trading).

This short overview of relevant developments in the period after 2010 provide further evidence of the complex considerations that surround the state's involvement and the operation of SOEs in the Hungarian economy. The robust policy of nationalisation and re-nationalisation, pursued under the political slogan of strengthening national (economic) sovereignty, appears to have been driven by considerations of security and resilience, covering broader (e.g., national security, economic resilience) and more concrete (e.g., security of supply, security of public services) interests. It also actively reduced the internationalisation of the Hungarian economy in the sectors where foreign ownership was deemed undesirable. The state acquisition of public utilities and public infrastructure arguably served public interest considerations, in particular considerations linked to the provision of public services to the population. In certain markets, such as the market for public education textbooks, the public (the public interest) nature of the activity seemed to justify monopolisation by the state. In the financial services sector, state intervention first followed the aim of corporate rescue, and later gained strategic objectives, such as the creation of a domestically established, sufficiently large competitor in the national market. Strategic policy interests, such as creating internationally relevant national champions, or the establishment and the strengthening of revenue creating state monopolies also played a role.

An even more complex picture emerges when we consider that the regional supply monopolies in the energy market, *Tigáz Zrt.* (natural gas) and *Titász Zrt.* (electricity) were not nationalised by the state, but were acquired by a Hungarian investment company that manages a domestic private equity fund. Furthermore, major public services, such as the waste management public service and the management of motorways have recently been given to private operators in the framework of long-term concession contracts. The new concession holders are a Hungarian established corporation and domestic investment funds. In 2021,

the private company 4iG, which is owned by local investment companies and a Hungarian private equity fund, was allowed to acquire majority ownership in Antenna Hungária, the previously re-nationalised broadcasting and wireless communications company. Through the acquisition of Antenna Hungária, 4iG also became the owner of Telenor (TMT Hungary B.V.), a significant participant in the Hungarian mobile telecommunications market. Vodafone, another important participant in that market, was acquired in 2023 by Antenna Hungária, now the subsidiary of 4iG, together with the Hungarian state's investment company, Corvinus Nemzetközi Befektetési Zrt. Vodafone's portfolio included UPC Hungary, a major internet and cable television provider, which it acquired in 2020. These developments, which took place in parallel with the previously described processes of nationalisation and re-nationalisation, indicate that the interests of state ownership can be subjected to other 'patriotic' interests, such as supporting national capital owners and promoting domestically-owned national champions.

## Conclusions

SOEs, especially as rediscovered following the global financial and economic crisis, may play complex roles and pursue complex objectives in national economies. In national economies, which experienced a model change following the exhaustion of the economic model pursued in the decades before the crisis, and as a reaction to the challenges posed by the crisis to broader and narrower issues of domestic security and resilience, SOEs became vehicles of state economic, industrial, technological and other strategic policies, beyond their traditional public mission and public interest rationales. In Hungary, the general constitutional framework governing the state's involvement in the economy, both before and after 2010, established only some basic tenets of the market economy, leaving it mainly to politics and policy-making to determine the model followed. Nevertheless, the constitutional rules and the central legislative provisions governing state ownership did indicate the preferred model for the national economy and SOEs therein. The rules before 2010 emphasised private enterprise and the equality of private property; the rules adopted following 2020 mapped out in detail the state's presence in the national economy and indicated its rationales. However, the place and the complex roles of SOEs in the Hungarian economy could only be explored with the help of knowledge of market developments, in particular of re-nationalisations and nationalisations. These, together with the relevant legal rules, revealed that the Hungarian SOE landscape is influenced by complex, often strategic interests and other factors.

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## Online links in the article

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URL1: *Újabb államosítás: visszaveszik a műsorszórást.* [Another nationalization: broadcast services to be reclaimed.] <http://nol.hu/gazdasag/ujabb-allamositas-visszaveszik-a-musorszorast-1452481>

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## Reference of the article according to APA regulation

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