# The Return of the White Horse:

# Land Grabbing in Hungary

Robert Fidrich

# Preface: The Legend of the White Horse

Hungary's land and the soil are of great national value. This is even reflected in history books and popular legends. One such legend – the Legend of the White Horse<sup>12</sup> – describes how following a centuries-long migration from Asia, the ancient Hungarian tribes entered the Carpathian basin in around 895 AD after receiving news about the wonderful fertile soils and rich rivers of this area. The conquering Hungarians sent a gift of a beautiful white horse to the Moravian chieftain, Svatopluk I, requesting only a cup of water from the Danube, a handful of soil and some grass from the meadows. After receiving these, the Hungarian tribes entered the Carpathian basin and told Svatopluk that from now on the land belonged to them. Svatopluk allegedly disavowed this 'contract' and then, after losing a battle, drowned in the Danube as he fled the Hungarians.<sup>3</sup>

#### Introduction

The agricultural and political developments in Hungary over the last two decades show that the White Horse has returned, albeit under a different guise. The actors are not ancient conquering tribes but 'investors' from the old European Union (EU) Member States attracted by the low cost of land in Hungary, and the prospect of capturing lucrative agricultural subsidies following Hungary's accession to the EU. Despite Hungary's moratorium on foreign land ownership, examples in this chapter show how outside actors have been able to 'grab' and control large areas of land, in particular through the use of so-called 'pocket contracts' and the manipulation of tenders to lease land. The role of the Hungarian state in this process has been ambivalent. On the one hand, it has sought to regulate the worst excesses of these land grabs, criminalising various practices. On the other hand, a state–capital alliance is actively facilitating and profiting from these dubious land deals. These competing tendencies in Hungarian agrarian politics raise both challenges and opportunities for Hungary's farmers and civil society groups.

This chapter is divided into four main sections. The first introduces Hungary's agrarian context and the main driving forces of land grabbing. In the second section, the two main types of land grabbing in Hungary – 'pocket contracts' and the lease of formerly state-owned land are detailed in various case studies. The third discusses the role of the Hungarian state in land grabbing, followed by a fourth section that identifies opportunities for farmer and civil society mobilisation and resistance to land grabbing. The chapter ends with recommendations on how to stop land grabbing in Hungary.

# **1.** Hungary's agrarian context

Hungarian agriculture and rural society have undergone several transformations since the end of the Soviet Union. Although agricultural land use remains relatively high and smallholder agriculture

continues to dominate (see Box 1), Hungary's small farmers are challenged by the growing land concentration, the privatisation of the Hungarian food system and the withdrawal of public investment from the countryside. Many of these trends have accelerated since Hungary's accession to the EU. This section gives a brief overview of the main features of Hungary's agrarian context.

# **1.1** Changing agrarian structures

In Soviet times, Hungarian agriculture was dominated by cooperatives and state-owned agricultural conglomerates. The collectivisation of Hungarian agriculture was a coercive state-led exercise, in which farmers were forced to 'offer' their land to the new cooperatives.

After the end of the Soviet Union their original land was restored to the cooperative members. This resulted in the creation of many small, non-competitive plots, many of which would later become the target of various forms of 'land grabbing'.

During the 1990s and after 2000, farming livelihoods and rural society were hit by a number of sweeping reforms. The privatisation of the food-processing industry and supermarket chains, the opening up of the food market to foreign products and the elimination of tariffs all eroded Hungary's local food systems and cultures.

# Box 1. Basic facts about Hungarian agriculture

Hungary comprises 9.3 million hectares (ha). The cultivable area is 7,768 million ha (including forests, reed-beds and fish-ponds). The agricultural area amounted to 5.79 million ha in 2008 – 62% of the total land area, which is high among EU countries. Around half of the arable land is used to grow cereals. The share of agriculture in the GDP fell from 13.7% in 1989 to 2.5% in 2009. Employment in agriculture also decreased from 8.3% in 1996 to 4.6% in 2009, while the share of agribusiness in GDP is quite high, around 12%–13% in 2008.

Sources: 'A magyar mezőgazdaság és élelmiszeripar számokban' (2005, 2009, 2010).

This process has accelerated since Hungary's accession to the EU, when highly subsidised agricultural products flooded the market. This resulted in many farmers going out of business, especially since in the first six years after accession the majority of small farmers were not eligible to apply for EU agricultural subsidies. Since small farmers constitute the vast majority of Hungary's farming population, this meant that 93% of farmers were excluded from the subsidy regime. No wonder that some experts concluded that '90% of agriculture subsidies went to only 100 persons'. In 2009 for instance, 8.6% of farms received 72% of the agricultural subsidies.

The plight of Hungary's farmers has been worsened by the withdrawal of government support to rural areas, resulting in the closing down of many rural services including railway lines, schools, post offices and hospitals. All these factors precipitated the destruction of Hungarian farmers and rural society, paving the way for those who were keen to grab land and increase land concentration.

#### **1.2** Land use: concentrated and fragmented

Land use in Hungary is at the same time both extremely concentrated and fragmented. A large number of small farms must compete with a small number of huge farms.

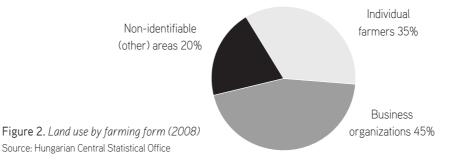
Land use has been disconnected from land ownership. Although the Land Act forbids legal entities (e.g. corporations, foundations and limited liability companies) from buying land, they can rent thousands of hectares to create huge farms.

Land concentration, land grabbing and people's struggles in Europe

Figure 1. Land use by sectors in Hungary

Land user	Total area (ha)	Relative size (ha)
Private individuals	3,294,260	9.38
Cooperatives	340,052	307.46
Business Companies	2,715,843	302,53
Other	287,647	102.06

Source: FVM, 2009



# **1.3** Moratorium on foreign land ownership

Land ownership in Hungary is regulated by the 1994/LV Act on soil and land, according to which *land* can only be owned by domestic private persons up to a maximum of 300 ha or 6,000 golden crown (AK) value.<sup>5</sup> Foreign persons or companies are not allowed to own land. A moratorium on land purchases by foreigners was instituted in 2011. Domestic legal entities are also prevented from obtaining land, with notable exceptions including the state, local authorities, public foundations, and forest or pasture ownership associations.

Land can be leased up to a maximum of ten years (except in the case of forests and orchards and land leased by the state and local authorities). National and foreign private persons and legal persons can lease a maximum of 300 ha (or 6,000 AK value). Companies and corporations are allowed to lease up to 2,500 ha (or 50,000 AK value). The state and local authorities can rent bigger tracts of land.

Hungary's moratorium on foreign land ownership contradicts the EU's single market, in which any obstacle to the free flow of capital and commodities is to be eliminated.

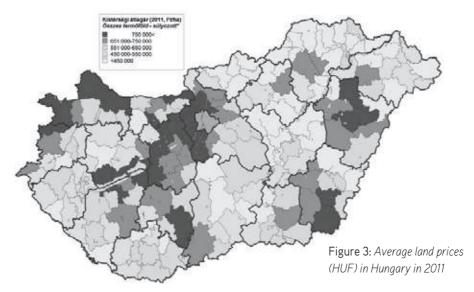
Technically, the new accession countries are obliged to harmonise their legal systems and open their land markets to any EU citizens or EU-based companies. However, since land prices were 10–20 times lower in Hungary than elsewhere in the EU, land was considered to be exempt from legal harmonisation. Most new accession countries were allowed seven years to open up their land market to foreigners. The Hungarian land moratorium of 2011 has been extended by a further three years, so until 2014 foreigners cannot legally purchase land in Hungary.<sup>6</sup>

# **1.4** The driving forces of land grabbing in Hungary

Land grabbing is not a new phenomenon in Hungary. Land has traditionally been sought because of the excellent quality of the soil and the abundant water resources it contains.<sup>7</sup>

Land concentration increased in the early 1990s when the state issued compensation notes in order to compensate citizens for unjust harms caused by the Communist regime. These notes could be used for the privatisation of state-owned assets, shares and also for purchasing land. However, as there was no real demand for the compensation notes that were issued *en masse*, their value decreased fast. However, certain lawyers and real-estate companies, who perceived the likely appreciation in its value, seized this opportunity to start buying up land. In many cases, they struck a deal with people who had received the compensation notes and were eligible to attend the land actions to bid for the land, and then purchased the land from them.

Hungary's accession to the EU has brought with it increasing commercial pressure on land. In particular, the **low price of land in Hungary** compared to the old EU Member States has been a driving force behind a new wave of land grabbing (see Figure 3). In the mid-1990s, the price of a hectare of land in Hungary was around 30,000 HUF, while in Austria it was around 3 million HUF. Although the price of land has been increasing over the last few years (7.7% increase in 2010), in view of population growth, resource constraints, and concerns about climate change and peak oil, it is still five to ten times lower than in Western European countries (e.g. arable land in the Netherlands is 20 times higher, in Denmark 15 times higher, in Spain eight times higher, and in France three times higher than in Hungary). <sup>8</sup> For farmers and companies in the existing EU countries, purchasing or leasing land in Hungary is therefore an attractive prospect. <sup>9</sup>



Source: OTP Termőföld Értéktérkép 2012 - OTP Bank, 2012 available at https://www.otpbank.hu/OTP\_JZB/file/Ertekterkep\_Termofold\_201205.pdf

The expected lifting of the Hungarian moratorium is another driving force behind land appropriations, following which prices are expected to rise.

Another main driving force of land grabbing in Hungary is the EU agricultural subsidies. Land users can obtain quite significant land-use related subsidies (e.g. Single Area Payments Scheme – SAPS), the collection of which can represent quite a profitable business, especially when the land has been acquired or leased at an extremely low price. Case studies show that this is one of the main factors in the recent scandals surrounding the lease of state lands in Hungary. The EU bio-fuels targets and the bio-mass subsidies are another factor.

There are also signs that Hungarian companies are involved in the global land-grabbing phenomenon. One of the owners of the largest Hungarian bank, OTP Bank, Sándor Csányi, is also one of the biggest landlords in Hungary. His company, *Bonafarm*, has been implicated in a land-grabbing case in Zambia. *Bonafarm* was one of the foreign investors that submitted bids to the Zambia Development Agency (ZDA) for development of the Nansanga Farm Bloc.<sup>10</sup> <sup>11</sup> According to the media, at least 9,000 farmers living in the 18,000 ha area would have to be resettled by the Zambian government. <sup>1213</sup> Finally the negotiations with the government broke down, and *Bonafarm* decided to give up on the project. One of the reported reasons for this failure was that the leader of the Patriotic Front, which won the general elections in Zambia in autumn 2011, was not supportive of foreign investors. *Bonafarm* is now preparing for large-scale land deals in Romania. Media reports suggest that the negotiations have already started.<sup>14</sup>

## **2.** 'Pocket contracts'

'Pocket contracts' are one of the main types of land grabbing in Hungary. The term originally referred to land deals that omitted the date of the purchase, and the contract is kept 'in the pocket' until the land moratorium is lifted. Only then the date will be filled in and the contract can be legalised and submitted to the land-registry authorities. The term is now used to describe all kinds of contracts that aim to find 'solutions' to the legal restrictions regulating land deals.

Despite the legal restrictions, research by the Győr-Moson Sopron County Agricultural Chamber indicate that around 1 million ha of land has been obtained by foreign persons or companies via 'pocket contracts' over the last two decades.¹⁵ Austrian farmers have obtained most of the land acquired in this way, but German, Dutch, Danish, British and other farmers and companies are also involved. Since all these illegal land grabs are backed by legal land use,¹⁶ around 300–500 million HUF (or €1.1–1.8 million) in national and EU agricultural subsidies have been given to these foreign land grabbers since Hungary's accession to the EU.¹७

It is hard to estimate the real extent of pocket contracts because of their illegal nature. The Hungarian government estimates that around 1–1.5 million ha land is in the hands of foreigners. The Austrian ambassador disputes this figure. According to him, Austrian farmers have obtained 'only' 160,000 ha of Hungarian land.<sup>18</sup> There are, however, villages close to the Austrian borders where locals report that 80% of the land has been bought up by foreigners.<sup>19</sup>

#### **2.1** 'Pocket contracts': selected case studies

There is ample evidence of the destructive impact of these 'pocket contracts', but we highlight three examples. The first is a sprawling property in Somogy county. Owned by the Italian Benetton family (the family behind the global textile brand of the same name), it is described by locals as Hungary's version of the notorious 'Alcatraz' prison. The second involves the accumulation of land by the wife of an Austrian investor through land 'donations' that were challenged as fictitious by local residents. The third details the business dealings of the *Grupo Milton* – a Hungarian company with Spanish ties – and the failure of its much hyped 'investment' projects.

### **A.** The Hungarian 'Alcatraz'

One of the big names linked to 'pocket contracts' in Hungary is the Italian Benetton family. Its activities made headline news when the right-wing party *Jobbik* organised a demonstration in front of the Benetton farm in April 2012.<sup>20</sup> According to news reports, the former cooperative property in Görgeteg,

# Box 2. Typology of Pocket Contracts

The Győr-Moson Sopron County Agricultural Chamber has identified 16 different types of 'pocket contract' over the last decade. Although some have since been excluded due to changes in the Land Tenure Act, it is worth listing them:

- 1) Sales contracts from which dates are missing. Dates will be attached after the moratorium on the land sale is lifted.
- 2) Completed sales contracts that are not submitted to the Land Registry. Contracts have a provision stipulating that they will be rewritten after the ban on the sale is lifted. In the first two types, the contracts cite an inflated price that is beyond the reach of the vast majority of local land users to ensure that no reinstatement can occur.
- 3) Contract is confined to pre-emption, or contract is a lease agreement that 'may not be abrogated', and it includes pre-emption.
- 4) Contracts that have been submitted to the Land Registry include a provision that says that the land transfer should only occur after the last (symbolic) instalment is paid. That last instalment would be paid only after the ban on the sale is lifted.
- 5) Options contracts: the buyer can access the property once the ban on the sale is lifted by issuing a unilateral statement.
- 6) Before the current land law entered into force, there was a short period when companies could buy land. If foreigners bought a stake in the assets of such a company, they became the owners of a tract of Hungarian land.
- 7) A contract in which the buyer is a foreign national but the contract does not mention their nationality and address. This is a primitive type of fraud but in many cases the Land Registry officials fail to notice it.
- 8) A joint venture is formed. The foreign partner contributes cash and the Hungarian partner contributes land. In time the foreign partner often buys out the Hungarian partner.
- 9) A company is formed for the ownership of woods or pasture.
- 10) Land is mortgaged to serve as collateral for a simulated loan deal. The foreign partner is named as beneficiary of the deal.
- 11) A foreigner is named as the heir of the land in a last will.
- 12) Instead of a sales contract, a deed of gift is written.
- 13) Instead of a sales contract, a contract is written on the exchange of two pieces of property.
- 14) A contract is written transferring the rights to derive benefits from the land for 99 years or for an indefinite period of time.
- 15) Occasionally Hungarian front men ('straw men') are used. A Hungarian citizen is the ostensible owner but the foreigner provides the purchase price. The obligations are not specified. Often the straw man is allowed to become owner of 1–2% of the assets of the foreign-owned company. Then the Hungarian straw man, acting as a co-owner, may use the right of pre-emption.
- 15) An internal auditing report is submitted to the Hungarian tax authority stating that a non-Hungarian citizen of the EU has been engaged in agricultural activity in Hungary for at least three years. The tax authority (unfortunately) approved such statements in many cases. After obtaining such approval, the foreigner concerned may own the Hungarian land.
- 16) Occasionally an illegal land deal is assisted by the Hungarian state. A non-Hungarian citizen of the EU receives the requisite documents from the Hungarian authorities without having carried out agricultural activities in Hungary over a period of three years. Sometimes such a permit is issued not for a specific tract of land but for an unspecified area.
- Source: Roszík, P. (2011) 'A fenntartható birtokpolitika megvalósíthatóságának akadályai közte a zsebszerződések'.

Somogy county, was purchased first by a German, falling into the hands of an Austrian owner before it became the property of Carlo Benetton.

The French newspaper *Le Monde* picked up on the case:

With its brand new white gate, the spread looks like it belongs to TV's mythical Ewing clan. Only the doorbell, manufactured in Florence, reveals that this former hunting lodge in south-western Hungary, previously owned by the Counts of Széchenyi, is now the property of Carlo Benetton, a scion of the Italian textile dynasty. The owner of vast estates in Argentina, here, Benetton exploits 7,000 hectares of corn, wheat and poplar trees. 'Folks call the castle "Dallas",' says, with a grin, Harri Fitos, a civil servant in the adjoining village of Görgeteg, located south of Lake Balaton. As for the village of 1,200 residents, hemmed in by fences to protect the Benetton fields from game, some have nick-named it 'Alcatraz', after the former US prison. The unemployment rate here is 50%, with little hope of finding a job – except for working security on the estate.<sup>21</sup>

# **B.** 'Donation fever' in the Őrség

At Bajánsenye in the Őrség region, a strange 'donation fever' broke out. One after another, villagers donated their land to a Hungarian woman, who collected property for her Austrian common-law husband. Later she also purchased land, acquiring 63 ha in this way. A local farmer, Mrs Györke contested these 'donations' arguing they were transactions designed to circumvent the pre-emption rights of local farmers.<sup>22</sup> The Supreme Court ruled in her favour so she was able to reclaim 49 ha. This is, however, only a drop in the ocean. In Bajánsenye, 80% of the 1,200 ha is already in the hands of foreigners, with three Austrian-affiliated ventures cultivating the lands.<sup>23</sup>

## **C.** Grupo Milton and the 'Spanish method'

Two of the top five property frauds listed by HVG.hu, the online version of the leading economic weekly magazine HVG, were the Balatonring and the Páty 'Gold Village' projects of  $Grupo\ Milton$  – a company

that prepared businesses dealings for the Spanish real-estate firm Sedesa.24 To conduct the fraud, the company used what is known as the 'Spanish method' in Hungary. This means that the company lobbyist, who knows the local area very well, builds excellent links with representatives from both sides of the political spectrum in order to 'grab' land belonging to the local authority, accompanied by grand promises to undertake mega-investment schemes. Later the local authority changes the status of the arable land to area for residential or industrial use creating billions of HUF profit for the investor (and for some members of the local council).25

#### Box 3. Profile Grupo Milton

Grupo Milton promotes itself in Hungary as the holder of 87 Spanish-based firms, with a turnover of €580 million in 2008. The head of the company, Bence János Kovács, is said to be the tenth richest person in Hungary with a fortune of 54 billion HUF. The website index.hu reports that he left the country more than 20 years ago when he was 18 years of age, making his fortune in Spain investing in real estate. In the early 1990s Bence János Kovács worked as a journalist and as a film-maker in the early 2000s in Hungary. He was convicted on charges of fraud and other crimes in 1995.

Source: http://index.hu/gazdasag/magyar/2010/02/22/kemeny\_porno\_rom-mania\_balatonring/.

### (i) Balaton-ring

The *Grupo Milton* holding rose to prominence in Hungary following a number of spectacular investment projects. One was as the new sponsor – together with the Spanish partner *Sedesa* – of the Hungarian MotoGP racer, former 125cc World Champion Gábor Talmácsy, and the investor behind the new planned MotoGP racecourse, Balatonring, in Sávoly, south of Lake Balaton.

The 196 ha in Sávoly where *Grupo Milton* wanted to build the ring was acquired by Béla Kiss and Béla Kiss Jr. in 2007–2008, according to the documents obtained by the investigative journalism watchdog *atlatszo.hu*. Public registry documents showed that until 2009 Béla Kiss was the CEO of the real-estate company *Evern Invest Hungary*, whose owner was Vicente Cotino, a real-estate mogul and chair of the *Sedesa* group.<sup>26</sup>

The foundation stone of the Balatonring project was laid in November 2008. As proof of the excellent links *Grupo Milton* enjoyed with the political establishment, the then National Development Minister, Gornod Bajnai and the Minister for the Economy, István Gyenesei, were in attendance, along with various other political figures. At this event, it was announced that 30% of the construction costs would be paid by the state-owned *Magyar Turizmus Zrt*, while the remaining 70% would be financed by the *Sedesa* group.

By 2009 and 2010 many alarming facts came to light about the dealings of *Grupo Milton*. It was revealed that the government decided to award  $\in$ 74.7 million in state aid as well as a loan of  $\in$ 55 million from the Hungarian Development Bank to *Sávoly Motorcentrum Kft*, a project operated and owned by Worldwide Circuit Managment SL, in which the *Sedesa* group is involved.

In February 2010 documents leaked from the Ministry of Finance showed that officials found the investment very 'risky, uneconomic and unlawful'<sup>27</sup>, and even Péter Oszkó, Minister of Finance, admitted that the leaked documents contained true information<sup>28</sup>. In March 2010, *Transparency International Hungary*, the *Hungarian Civil Liberties Union* and *K-Monitor Anticorruption Watchdog Institute* – major Hungarian anti-corruption NGOs – turned to then Prime Minister Gordon Bajnai to express their concerns about the project's financing from public sources, asking him to freeze the contracting procedure and the disbursement immediately.<sup>29</sup>

In March 2010 – after further scandals about  $Grupo\ Milton$  and Sedesa were revealed and following the disclosure of the KPMG feasibility study<sup>30</sup> – the leader of the state-owned company  $Magyar\ Turizmus\ Zrt$ , who played key role in this case, resigned. Finally, the Hungarian Development Bank announced that it would refuse to sign the contract with  $S\'{a}voly\ Motorcentrum\ Kft$ , thereby cancelling the whole project.<sup>31</sup>

# (ii) Páty

Another project of *Grupo Milton* that raised public concern was the so-called 'golf village project' in Páty, a village around 30km west of Budapest, not far from the M1 motorway. In 2002, the local council of Páty gave the green light to plans for a golf course submitted by *Jabinor Kft*, a real-estate firm. Two individuals purchased the 120 ha of arable land bordering the neighbouring village of Telki. One was Rita Polet, wife of the Belgian businessman Christian Polet. In the registry documents, the right to a mortgage was registered by *Jabinor Kft* (whose official headquarters are listed as being in the same flat as Polet's firm). *Jabinor Kft* 'donated' 300 million HUF to the local council of Páty in 2006. Officially, the sum was used to build a kindergarten.<sup>32</sup>

Yet according to sources provided by *Index.hu*, this was the same amount as the cost of reclassifying the land use from arable to residential or industrial use. In 2005, after voting on an amendment proposal of Gábor Laboda, a socialist member of parliament, the Agglomeration Law was modified so that the

area in question was listed as a development area, eligible for a special sport-zone status. Laboda was declared an honorary citizen of the villages three years later.<sup>33</sup>

*Grupo Milton* also joined the project, purchasing real-estate projects in Pécs and land in Tárnok, Székesfehérvár and Páty for a total of 5 billion HUF. The former golf course project in Páty was suddenly ten times bigger. In 2009 the new plans and designs drawn up by the Spanish architect company were presented. According to these, the new goals of the project were to expand Páty and build a new residential area with 300 villas, 600 twin houses, 1,400 flats, two hotels, a swimming pool, a conference centre, a school and a giant shopping mall (plaza) around a big golf course.

The new plans shocked the local citizens, who formed an opposition movement. The local council of Telki unanimously rejected the modification of the urban plan for Páty. Despite growing opposition by the local movement 'Páty is not for sale', the local council of Páty approved several proposals favouring the project. In March 2010, the opposition movement demonstrated in front of the Spanish embassy in Budapest. They approached the 'ombudsman for future generations'<sup>34</sup>, who stated the decrees of the local council contravened the law on several points. At the end of March 2010 the local council denounced the ombudsman's statement. In response the ombudsman turned to the Constitutional Court to ask for the decrees of the local council to be cancelled.

Finally, after various scandals and widespread opposition to the *Grupo Milton* and its projects the local council of Páty revoked the urban plan that would provide the basis of the project. The official reason was that *Grupo Milton* had been unable to acquire the land before the deadlines set for the project.<sup>35</sup>

Thus another project of *Grupo Milton* failed. Since then *Grupo Milton* has almost completely disappeared, with none of its projects implemented.

#### **2.3.** Taking action against 'pocket contracts'

The controversy surrounding 'pocket contracts' has not gone unnoticed and a number of steps have been taken to tackle them:

#### **A.** Investigation of a 'pocket contract' case

In 2010, the newly elected Fidesz government announced that it would seek to investigate the issue, with a special committee set up in 2011. A few months later, the Győr-Moson-Sopron county police opened an enquiry into a 'pocket contract' case in November 2012. It is suspected that an Austrian investor obtained land with the assistance of a Hungarian 'straw man'. A criminal investigation was started because of a falsified legal document. A piece of land value at 140 million HUF was purchased by a Hungarian family farmer. This aroused the suspicion of the police since the farmer could not have had this kind of money. In addition, Hungarian farmers are not cultivating this piece of land.<sup>36</sup> This is allegedly the first case of a police investigation into of a 'pocket contract'.

#### **B.** 'Pocket contracts' in the new Criminal Code

The Criminal Code approved in June 2012 contains a paragraph about 'pocket contracts'. Paragraph 349 deals with the illegal acquisition of land. Those who sign invalid contracts involving either (a) the acquisition of land or (b) the creation of beneficial ownership or usage rights circumventing legal prohibitions or restrictions, can receive jail sentences of between one and five years. Lawyers or notaries involved in setting up such contracts can also be sentenced.<sup>37</sup> The new Criminal Code enters into force in July 2013. Until then, the government has offered an amnesty to anyone who discloses information about 'pocket contracts'.<sup>38</sup>

# **C.** Recommendations from farmers and civil society regarding 'pocket contracts'

A conference on land tenure policy and 'pocket contracts', organised by the Magyarországért Kulturális Egyesület ('For Hungary' Cultural Association) and the Győr-Moson-Sopron County Agriculture Chamber, was held at the West Hungary University Mosonmagyaróvár Departement on 16 June 2012. The conference made the following recommendations regarding 'pocket contracts':<sup>39</sup>

- 1) One cannot rely on voluntary 'admission' by people who have acted illegally. They may intentionally lie, saying they followed the regulations while knowing this is not true, or they may be unwittingly involved in an illegal deal, unaware that they have done anything wrong.
- 2) The inclusion of 'pocket agreements' in the new Criminal Code is very welcome, as is the amnesty for voluntary admissions, but is not enough to resolve the situation. We propose that the Criminal Code define and list the known types of contracts and documents that are subject to legal review, while not narrowing the legal effect to the listed cases.
- 3) Beyond the Criminal Code, the state should implement a coordinated strategy to regulate 'pocket contracts'.
- 4) We recommend the following actions:
  - 4.1) Set up a Land Agency with strong authority and local chapters to investigate each reported 'pocket contract' on a case by case basis;
  - 4.2) Replace the vendor in case of a contract cancelled by the state;
  - 4.3) In the case of a cancelled contract, the legal status of the land should be established by the state;
  - 4.4) In the process of cancellation, the interests of the state should be represented by a lawyer, declaring the illegal nature of certain types of contract in a public hearing if necessary;
  - 4.5) The police should make investigations if this is required;
  - 4.6) Improve the real estate registry so that dubious entries can be queried and reported (...);
  - 4.8) The National Tax Agency should investigate all assets held by well-known local 'straw men' (...);
  - 4.19) The persons involved in a 'pocket contract' should be at least temporarily excluded from the land market.

# **3.** Land grabbing and the Hungarian state

The role of the Hungarian state in land grabbing is complex. On the one hand, the state – or progressive factions receptive to the interests of small farmers and civil society concerns – are leading the charge in investigating suspicious land deals and taking measures to curb them, such as with the uptake of 'pocket contracts' in the new Criminal Code. On the other hand, the state also facilitates many large-scale land deals. A state–capital alliance characterised by elite enrichment, corruption, and cronyism threatens to stymie any attempts to tackle land grabbing in Hungary. The transfer of thousands of hectares of formerly state–owned lands into the hands of small group of people between 2002 and 2010 is indicative of this alliance. It is in a sense a kind of 'pocket contract' enforced by the state involving the large–scale selling off or long-term lease of formerly state–owned land to big business at the expense of local small–scale farmers.

The two case studies below capture this duality. The first shows how land grabbing touches the very highest levels of Hungary's political class, with the family of Prime Minister Viktor Orbán profiting from a land lease tender in Fejér County. The second describes the battle by the then under-secretary of the Rural Development Ministry, József Ángyán – a key political ally of small farmers and the food sovereignty movement in Hungary – to prevent manipulation of a land-leasing tender in Southern Borsod. His failure to do so and his subsequent resignation demonstrate the difficulties in regulating and rolling back land grabs in Hungary. In both cases, it is local small-scale and family farmers who have lost out the most.

# A. Fejér County: elite enrichment leaves local farmers empty handed

The biggest scandal surrounding the land-leasing tenders took place in Fejér County where Felcsút, the native village of Viktor Orbán, Hungary's current prime minister, can be found. While friends and family of Orbán and other politicians received the bulk of the land, local farmers in places like Kajászó could not even rent a single square metre.<sup>40</sup>

According to the analysis made by József Ángyán<sup>41</sup>, two interest groups received almost 60% of the state lands during the tenders (a total of 3,156 ha – in both cases well above the 1,200 ha limit published in the tender call). The biggest winner was the interest group of the four families belonging to the *Csákvári Mg. Zrt*, who received 1,829 ha (34% of the recently announced area up for lease in the county). Even the 81-year-old mother of the company CEO was awarded 245 ha. After it was revealed that the mother lives in a retirement home in Budapest, there was a massive public outcry among the local farmers who had received no land lease. Finally, the National Land Management Authority (NFA) had to revoke the decision to lease 186 ha of arable land in the village Magyaralmás to the elderly woman, but the issue of leasing 60 ha of orchards in Csákvár to her remains outstanding.<sup>42</sup>

The second biggest winner of the Fejér tender process was the family of Lőrinc Mészáros, mayor of Felcsút (see Box 5), with 1,327 ha or 25% of the recently announced area up for lease in the county. Nine other interest circles received 90% of the land in the county (4,558 ha altogether). One of those obtaining more than 100 ha was János Flier and his family (377 ha). According to the local farmers, János Flier is co-owner of the land together with Anikó Lévai, the wife of the prime minister. Flier is Lévai's constant business partner: they have been buying, selling and exchanging land for many years. 43

These nine interest circles were already receiving 199 million HUF in agricultural subsidies, including 143 million HUF in SAPS (area-based) subsidies in 2011. Calculating on the basis of 56,911 HUF/ha in subsidies, these groups were already cultivating at least 2, 502 ha in 2011. They received 4,558 ha in 2012, thereby almost doubling their landholdings.<sup>44</sup>

The recent leasing fee for the state-owned lands is 1, 250 HUF/AK (golden crown value).<sup>45</sup> The bigger winners received high-quality lands worth 21-24 AK/ha. Even in the case of these excellent lands one can calculate around 26,000-30,000 HUF/ha leasing fee. Taking into account that the area-based SAPS subsidies were 63,234 HUF/ha in 2012,<sup>46</sup> leasing state-owned land can be considered very good business. No wonder that suddenly so many 'new farmers' with close ties to the prime minister or other politicians submitted applications to the land-lease tenders. At the end of the tendering process, there were only nine villages out of the 28 where local farmers received at least part of the land (26.4% of the total area).

### Box 5. Felcsút mayor consolidates land and power

Alcsútdoboz is a village in Fejér County, about 50 km west of Budapest. It is situated next to Prime Minister Viktor Orbán's native village, Felcsút. Alcsútdoboz's historic farm, 'Hatvan puszta', once belonged to Archduke Joseph and is now rented by Lőrinc Mészáros, mayor of Felcsút. The proprietor is CZG Kft, a company that belongs to Győző Orbán, father of the present prime minister and a well-known mine owner in western Hungary. The farm is surrounded by lands rented by the mayor's company, Búzakalász 66 Kft. All of these lands are public property, tendered out for farm leases. Two other plots of land next to Mészáros's belong to Anikó Lévai, Viktor Orbán's wife.

Although we saw construction works and local rumours say the mayor of Felcsút is planning to open a hotel there, Mészáros claims the buildings are used as warehouses and that the construction works we filmed are only conservation works. Locals, however, told us that Mészáros plans to open a hotel on the site to provide accommodation for filming crews working in the Korda Filmstudios. Korda Filmstudios is located in Etyek, a village near Alcsútdoboz, and belongs to entrepreneur Sándor Demján, who is ranked the fourth richest Hungarian.

In addition to leasing large areas of formerly state-owned land, Mészáros was also nominated for the presidency of Ferenc Puskás Football Academy by Viktor Orbán. This six-year-old football academy is building its own stadium in the village of Felcsút, using public funds. Mészáros is also the president of the landowner's community of Alcsútdoboz and Felcsút. This may be why local farmers claim he has acted as a 'straw man' in applying to lease national properties.

All this has meant that local farmers have been unable to even rent a single square metre of land while Mészáros's company and family members control 1,377 ha in the area.

Source: Adapted from Átlátszó (2012) 'Orban family is becoming landlord while local farmers get no land lease'. Available at: http://atlatszo.hu/2012/05/15/orban-family-is-becoming-landlord-while-local-farmers-get-no-land-lease/.

# **B.** The Mariano case: a broken promise to support family farmers in Southern\_Borsod

*Mariano Kft.* is a company founded in 1994 by the Italian investor Battisti Mariano and his Hungarian common-law wife Andrea Varga.<sup>47</sup> The company signed a 20-year contract with the Bükk National Park Directorate to lease about 4,300 ha in Southern Borsod.

According to recent government investigations, there are multiple irregularities in both the contract and the land use. First, at the time a maximum of ten-year leases were permitted. The 20-year lease was thus illegal. Second, the leasing fee was far below the market price, with the company paying nothing for the largest part of the land. Lastly, the National Park also signed a contract with Andrea Varga and her brother, Kornél Varga, covering much of the same area, circumventing the changes in the 1994 Land Tenure Act. 49

For the ecological management of this environmentally sensitive area, the company received 800 million HUF in the last four years from the European Agricultural Fund for Rural Development (EAFRD) agri-ecological scheme. The However, according to an expert witness, the ecological management tasks were not undertaken in 2006; the protected area was in very poor condition. This has been corroborated in a report from the North-Hungarian Environmental, Nature Conservation and Water Management Inspectorate, which states that there has been a permanent neglect of ecological management duties.

The Bükk National Park Directorate – after a call by the public prosecutor – initiated a court case to invalidate the illegal contract. After several years of legal process, the Supreme Court ruled the contract invalid in 2011.<sup>53</sup>

Other cases brought by the Bükk National Park Directorate against *Mariano Kft.* are still in progress. The Agriculture and Rural Development Agency (MVH) has already started an investigation into the payment of subsidies. If these are found to be illegitimate, the company will have to repay them. The nature conservation authorities will also take action should the charges of environmental damage and neglect of duties be proven.<sup>54</sup>

After the Supreme Court ruled the contract invalid, the state announced a tender to lease the 4,300 ha in Southern Borsod to local farmers. This formed part of the Fidesz Party's election promise in 2010 to advance the interests of Hungary's small farmers (see Box 4.)

The Bükk National Park Directorate, after receiving a written order from the Ministry for Rural Development, contacted the regional farmers' association in order to elaborate the conditions for a leasing tender of 4,300 ha of state land. After long and thorough negotiations with the Borsod Mezőség Farmers' Association, the tender of this land, to be divided into 52 units in the Borsod Mezőség Landscape Protection Area, was announced in September 2011.

## Box 4. Fidesz: party of the peasants?

The Fidesz Party led by Prime Minister Viktor Orbán was elected in 2010 with a pledge to stand up for the rights of Hungary's small farmers. Following the scandals surrounding various land-leasing processes like the Mariano case, the government promised to offer the lands of expired lease contracts to local small and family farmers and young farmers. József Ángyán, founder of the environmental institute of Szent István University, Hungary's main agricultural university, is widely credited with championing this strategy and playing a key role and in bringing Fidesz to power by securing the support of rural Hungarians. He was offered the position of under-secretary in the Ministry of Agriculture and his vision for food sovereignty was translated into the new Rural Development Strategy approved by the parliament in 2011.

Taking into account that originally there was a 200 ha limit per interest circle, this could have provided opportunities to a wider range of farmers, granting approximately 50–60 families with access to land.

Many farmers worked hard and submitted their applications on time. But after the deadline, the minister suspended the director of the national park, giving no reason, and cancelled the tender process on 3 October 2011, ten hours after the deadline. The local farmers did not understand what happened. Initially, they hoped the government wanted to provide further guarantees for the strengthening of the local farmer families.

However, József Ángyán, then under-secretary of the Ministry of Rural Development, noticed several irregularities and anomalies surrounding the Southern Borsod land-leasing tender process and also in other cases. He discovered that some forces within the Ministry were tailoring the conditions and rules to favour political cronies and large landowners. Not wishing to be part of a land grab by old and new landlords (or 'oligarchs') at the expense of local small-scale and family farmers, he resigned.

A new tender with modified conditions and a new deadline of 30 January 2012 was announced in December 2011. The first successful applicants were announced on 29 March 2012. The local farmers were disappointed.<sup>55</sup> So far, only 36% of the land units have been granted to people living in the same municipality. Three interest groups received 51% of the land (more than 400 ha each) and a further 31.5% has been given to four other interest groups (between 100 and 300 ha).<sup>56</sup> <sup>57</sup>

# **4.** Resistance and opportunities: competing tendencies in Hungary's agrarian politics

This duality of the Hungarian state with regard to land grabbing reflects the tensions in Hungary's political system, in which competing political tendencies vie for prominence. Ángyán's resignation from the government can in some senses be read as a blow for the progressive bloc in the parliament, giving the oligarchs and landlords the upper hand.

However, the scandals surrounding the 'pocket contracts' and land-lease tenders have also ignited a new wave of mobilisation in civil society and among farmers. Far from disappearing from the scene, Dr Ángyán has organised several public forums in the countryside and more than 30 new farmers' unions/councils have been formed. Farmers' organisations such as Gazdatanácsok Országos Szövetsége (National Alliance of Farmers' Councils)<sup>58</sup> and Gazdálkodó Családok Szövetsége (Alliance of Family Farmers)<sup>59</sup> have recently become more active.

Efforts to resist land grabbing can be witnessed in both the land occupation carried out by local farmers in the village of Kajászó and civil society pressure against the proposed new Land Tenure Act.

# **A.** Land occupation in Kajászó

Kajászó was one of the villages where local farmers received no land during the 2012 land-lease tenders. Instead, a construction entrepreneur, Árpád Kiss, from the village of Kápolnácsnyék, was awarded 280 ha, despite having no prior experience of farming. According to local residents, the fact that Kiss was a neighbour to one of the under-secretaries of the Rural Development Ministry played an important part in the decision.<sup>60</sup>

Inspired by José Bové's visit two weeks earlier, farmers from the village of Kajászó symbolically occupied and cultivated a piece of state-owned land in October, protesting against the decision to lease it to a non-resident. As *Népszabadság*, the leading Hungarian newspaper reported, a farmers' assembly was organised before the action, during which they demanded the repeal of the shameless land-lease decisions, which they viewed as illegitimate. The farmers also sent a letter setting out their demands to the NFA and to Sándor Fazekas, the minister in charge. Since they received no real answers from the minister, a month later, in the spirit of civil disobedience, the desperate local farmers ploughed 70 ha and encircled it with a stripe, marking it as an 'occupied area'. The farmers began the action after it was revealed that the value of the 284 ha awarded to Árpád Kiss was 2,194 AK (golden crown), higher than the 6,000 limit of the land-lease tender. Hence the farmers decided to occupy and cultivate the 70 ha exceeding the limit that was declared to be illegally leased to Kiss.

#### **B.** Opening the land market: the new Land Tenure Act

In autumn 2012, the Hungarian parliament began discussing a new Land Tenure Act in order to regulate the land market after the moratorium on foreign land ownership expires in 2014. Although the official government communication emphasises that this is about ending giant farms, providing opportunities to small-scale and family farms, and preventing the purchase of land by foreigners, a careful analysis shows that the proposed legislation provides clear privileges for huge farms and companies. It does this by creating a new 'caste system', making it legally impossible for small-scale and family farmers to buy land above a certain limit (50 ha for small farmers, 300 ha for family farms), while providing unlimited (more than 1,200 ha) access to land for large farm owners and companies.

According to a statement issued by 71 civil society organisations (CSOs), the planned liberalisation of the land market would accelerate land grabbing in Hungary and lead to increased land concentration. The groups declared the draft unacceptable and urged significant changes. <sup>64</sup> Following a public outcry, the government was forced to postpone the vote on the draft act. By November 2012 more than 200 amendments had been submitted, with civil society and farmers' groups actively campaigning on the issue. The final vote on the act is expected in February 2013.

#### Conclusions

The cases presented in this chapter show that the cautionary tale of the White Horse still resonates in present-day Hungary. With Hungary's accession to the EU, land and natural resources are increasingly being commodified and controlled by large-scale capital. Access to land for Hungary's small and family farmers is a precondition for the realisation of food sovereignty and the survival of rural society. The unfair distribution of agricultural subsidies, the opening up of the land market as proposed by the new Land Tenure Act, and the signing of 'pocket contracts' and other duplicitous deals all threaten this vision of land as a common heritage.

Against this background, the following recommendations are made to counter land grabbing in Hungary and secure access to land for the country' small farmers:

In the short to medium term:

- All types of 'pocket contract' should be investigated by the government and invalidated before the
  expiry of the land moratorium. The remaining potential loopholes that enable 'pocket contracts'
  should be closed.
- 2) All details of tenders involving the lease of state-owned land should be disclosed and made easily accessible to the general public. The lease of such land should support small local farmers rather than those who have close ties to senior politicians.
- 3) The proposed Land Tenure Act should be modified in order to serve the interests of local, small-scale farmers rather than of large-scale capital and agribusiness.
- 4) The EU agricultural subsidy system should be changed to ensure that public money does not drive the grabbing and concentration of land. Public money should not be used to fund an agricultural system that generates negative external costs to society.
- 5) The bio-fuel targets should be dropped and public subsidies for bio-fuels and energy-biomass production withdrawn. The EU targets and subsidies for renewable energy should be subject to wider review in order to prevent land grabbing and the negative effects resulting from indirect land-use change.
- 6) The Accession Treaty between the EU and new Member States should be renegotiated. The obligation for the latter to open up their land markets should be dropped.

### More generally:

7) Land should not be a commodity. The recognition of land as a common heritage of the nation in the constitution of Hungary (the 'Basic Law'), along with the duty of the state and the people of Hungary to protect it, should by truly implemented.

- 8) Local communities should control land and other natural resources. The precondition for rural regeneration is for rural people to regain sovereignty. The institution of community land tenure that was a common practice in Hungary a few centuries ago should be reintroduced. Local communities should collect all the fees/income deriving from the sustainable use and management of land and other natural resources.
- 9) All land tenure policies should facilitate access to land for local people whose livelihood is based on farming.
- 10) In order to enhance sustainable land use, an integrated system should be developed and introduced. Such a system could be the 'National and International Land Use Cap System' proposed by MTVSZ and Friends The Earth Hungary. This is a similar system to the Energy Quota System promoted by the Resource Cap Coalition,<sup>65</sup> but the main focus is on land use.

#### **Endnotes**

- 1. Source: http://hu.wikipedia.org/wiki/A\_feh%C3%A9r\_I%C3%B3\_mond%C3%A1ja/.
- Source: 'A fehér ló mondája, Lengyel Dénes: Magyar regék és mondák Kaszás Attila előadásában'. Available at: http://www.youtube.com/watch?v=oBXFmMRq7Vc/.
- 3. The historical accuracy of this legend is questioned: 'Actual historical background of the story is dubious because Svatopluk I was already dead when the first Hungarian tribes arrived. On the other hand even Herodotus mentions in his Histories an Eastern custom, where sending a white horse as payment in exchange for land means casus belli. This custom roots in the ancient Eastern belief in the fertility of stolen land', cited in: http://huns2huns.com/ the-legend-of-the-white-horse/.
- Roszík, P. (2011) 'A fenntartható birtokpolitika megvalósíthatóságának akadályai közte a zsebszerződések', in ,A britokpolitika szabályozásának alakulása és aktuális kérdései', (2011) Nyíiregyháaza: Bors Alapíitváany, available at http://lmv.hu/files/zsebszerz\_v2.pdf.
- 5. The golden crown (AK) value measures the potential income from cultivating a unit of land based on the quality of the soil, the location/aspect of the land, the expected yield, and the ease of cultivation.
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- 11. Source: http://farmlandgrab.org/post/view/19356/.
- Source: http://www.lusakatimes.com/2012/01/08/zda-conclude-negotiations-winner-tender-developnansanga-farm-block/.
- 13. Source: http://vallalkozoi.negyed.hu/vnegyed/20110928-afrikai-privatizacios-palyazaton-vesz-reszt-csanyi-sandor-agrarcege-a-bonafarm.html/.
- 14. Source: http://nol.hu/gazdasag/20121103-tavol\_afrikatol/.
- Roszík, P. (2011) 'A fenntartható birtokpolitika megvalósíthatóságának akadályai közte a zsebszerződések', Nyiregyhaza: Bors Alapitvany, available at http://lmv.hu/files/zsebszerz\_v2.pdf.
- 16. Pocket contracts take advantage of a variety of loopholes to acquire land. Since land use and land ownership are differentiated under Hungarian land law, these illegal practices can be backed by 'perfectly legal' land-use contracts.
- Roszík, P. (2011) 'A fenntartható birtokpolitika megvalósíthatóságának akadályai közte a zsebszerződések', Nyiregyhaza: Bors Alapitvany, available at http://lmv.hu/files/zsebszerz\_v2.pdf.
- 18. Source: http://index.hu/belfold/2012/04/25/aki\_idoben\_feldobja\_a\_zsebszerzodest\_buntetlenseget\_kap/.
- 19. Source: http://mno.hu/hirtv\_gazdasagi\_hirei/igy-vedik-az-osztrakok-a-foldjuket-1116566/.
- $20. \ Source: \ http://nol.hu/archivum/a\_benetton-farm\_elott\_tuntetett\_a\_magyar\_foldert\_a\_jobbik/.$

- 21. Source: http://farmlandgrab.org/post/view/21548/.
- 22. According to the land tenure legislation, if land is being sold in areas where local farmers and villagers live, then the locals have 'pre-emption rights'.. This means that if they want to buy the land, the owner must sell it to them. Only if the local farmers are not interested can the owner sell it to non-residents.
- 23. Source: http://hetivalasz.hu/uzlet/hatarszel-piros-feher-pirosban-38301/.
- 24. Source: http://hvg.hu/ingatlan/20110117\_property\_fraud\_2010/.
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- 26. Source: http://atlatszo.hu/2011/07/18/magyarleaks-a-sokmilliardos-savolyi-spanyol-foldspekulacio-stromanjai/.
- 27. http://index.hu/gazdasag/magyar/2010/02/25/jogszerutlen\_a\_balatonring\_allami\_tamogatasa/
- Source:http://www.transparency.org/news/pressrelease/20100303\_hungary\_government\_agrees\_to\_back\_mega\_project\_in\_hungary\_despite\_
- Source:http://www.transparency.org/news/pressrelease/20100303\_hungary\_government\_agrees\_to\_back\_mega\_project\_in\_hungary\_despite\_/.
- 30. KPMG is a global network of professional firms providing audit, advisory and tax services. The development bank asked KPMG Hungary to make a feasibility study before making a decision. Based on this study, the officials concluded that the inventsment was 'risky, uneconomic and unlawful'...
- 31. Source: http://www.es.hu/bodoky\_tamas;a\_grupo\_milton\_spanyol\_modszere;2010-12-15.html/.
- 32. http://index.hu/gazdasag/magyar/2009/11/20/panamagyanus\_oriasberuhazas\_patyon/
- 33. Source: http://index.hu/gazdasag/magyar/2009/11/20/panamagyanus\_oriasberuhazas\_patyon/.
- 34. The portfolio of the ombudsman for future generations focuses on environmental and sustainability issues that was created as a result of the activism of the Hungarian Green movement. Unfortunatly, the latest amendments to the new constitution have done away with this particular position.
- 35. Source: http://www.origo.hu/itthon/20100716-grupo-milton-golflakopark-iden-biztosan-nem-epul-golffalu-patyon.html/.
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- 38. Source: http://index.hu/belfold/2012/04/25/aki\_idoben\_feldobja\_a\_zsebszerzodest\_buntetlenseget\_kap/.
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- 42. Source: http://atlatszo.hu/2012/05/21/mrs-orbans-business-partner-is-the-biggest-land-lease-winner-in-felcsut/.
- 43. Idem.
- $44. \ Source: http://www.kielegyenafold.hu/userfiles/file/angyan\_j\_3.pdf/.$
- 45. Source: http://www.origo.hu/gazdasag/20120312-mezogazdasag-a-nagyuzemi-szfera-potencialis-politikai-lohhistai html/
- 46. Source: http://www.kielegyenafold.hu/userfiles/file/angyan\_j\_3.pdf/.
- 47. http://elszamoltatas.kormany.hu/download/2/07/20000/%C3%96sszefoglal%C3%B3%20-%20honlap%20 (Mariano).pdf
- 48. http://elszamoltatas.kormany.hu/download/2/07/20000/%C3%96sszefoglal%C3%B3%20-%20honlap%20 (Mariano).pdf
- 49. http://elszamoltatas.kormany.hu/download/2/07/20000/%C3%96sszefoglal%C3%B3%20-%20honlap%20 (Mariano).pdf
- 50. Source: http://elszamoltatas.kormany.hu/download/2/07/20000/%C3%96sszefoglal%C3%B3%20-%20 honlap%20(Mariano).pdf/.
- 51. Ibid.
- 52. Ibid.
- 53. http://www.boon.hu/budai-gyula-precedens-erteku-dontes-szuletett/1736451
- 54. Source: http://www.greenfo.hu/hirek/2011/09/16/kidobtak-az-olaszokat-a-bukkbol/.
- 55. Source: http://www.greenfo.hu/hirek/2012/03/30/a-tu-csorba-hegye-avagy-cipolla-foldje/.
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