

Government Decision 1080/2013 (25 February)

on the approval of the Action Plan on Hungary's commitments to be made in the framework of the Open Government Partnership international initiative

1. The Government agrees to Hungary's commitments to implement the measures specified in the action plan in Annex 1 within the framework of the international initiative titled "Open Government Partnership".
2. The Government calls the Minister of Public Administration and Justice to send the action plan in Annex 1 as Hungary's commitments made under the Open Government Partnership to the Steering Committee of the Open Government Partnership.

Person in charge: Minister of Public Administration and Justice

Deadline: immediately

Action Plan

on Hungary's commitments to be made in the framework of the Open Government Partnership international initiative

I. The importance of open governance for Hungary

Hungary's Fundamental Law, promulgated on 25 April 2011 and entered into force on 1 January 2012, stipulates that:

- Hungary shall be an independent, democratic state governed by the rule of law. [Article B, Paragraph (1)]
- The source of public power shall be the people. [Article B, Paragraph (3)]
- Hungary shall enforce the principle of balanced, transparent and sustainable budget management. [Article N, Paragraph (1)]
- Every person shall have the right to the protection of his or her personal data, and to access and disseminate data of public interest. [Article VI, Paragraph (2)]
- The State shall strive to use the latest technological solutions and scientific achievements to make its operation efficient, raise the standard of public services, improve the transparency of public affairs and to promote equality of opportunity. [Article XXVI]
- All bills on the State Budget and its implementation shall contain all state expenditures and revenues in the same structure, in a transparent manner and in reasonable detail. [Article 36, Paragraph (2)]
- The Government shall be obliged to implement the State Budget in a lawful, practical and transparent manner, with efficient management of public funds [Article 37, Paragraph (1)]
- Agreements on the transfer or utilisation of national assets shall only be concluded with any organisation which has a transparent ownership structure, organisation and activity aimed to manage the national assets transferred or assigned for utilisation. [Article 38, Paragraph (4)]
- The State Budget may only be used for providing support or performing any contractual payment to an organisation which has a transparent ownership structure, organisation and activity aimed to utilise such support. [Article 39, Paragraph (1)]
- Every organisation managing public funds shall be obliged to account for its management of public funds to the general public. Public funds and national assets shall be managed according to the principles of transparency and the elimination of corruption. The data related to public funds and national assets shall be data of public interest. [Article 39, Paragraph (2)]

Hungary's commitment to open governance is clear from the above provisions of its Fundamental Law.

II. Hungary's achievements in the field of open governance

Until the end of the 1990s Hungary had primarily employed a criminal law approach and used criminal enforcement measures to fight corruption.

The turn of the millennium, however, saw major changes in this attitude. It was at this time when the strategic decisions on the next decade's anti-corruption measures were made in connection with Hungary's EU accession negotiations, started in 1998. These were mainly legislative measures which established a legislative framework for the prevention of corruption and the transparency of state operation. Several new legal regulations entered into force which created new legal instruments or exercised better control over the application of existing ones. Such legislative changes included the extension of the obligation to make property statements to decision-makers fulfilling public services and to Members of Parliament; the regulations on making data of public interest and data made public due to public interest generally accessible on the internet; and statutory provisions determining the most important rules in relation to public interest disclosures. The website <http://kozadat.hu>, which contains systematically organised public sector data, was also launched at this time.

The creation of the new legislative framework to prevent corruption was a major achievement but in itself it proved to be insufficient to eliminate corruption. The next change of approach in Hungary's anti-corruption efforts took place in 2010. From this time on, parting with the limited approach which focused exclusively on criminal law and legislative/institutional frameworks, Hungary has fostered Good Governance through strengthening the integrity of state organisations. This integrity-centred approach creates a balanced mix of risk analysis and regulation elements; control, training, information, ethics and organisational development elements ensuring compliance with and the implementation of rules; as well as the efficient sanctioning of violations with a comprehensive and differentiated system of instruments, which ultimately also include criminal law instruments.

During the 2000s the succeeding governments generally failed to establish a successful anti-corruption dialogue with the society and with the civil sector in its narrow sense. Subsequent attempts generally failed to achieve permanent results. The creation of social dialogue on the prevention of corruption and the transparency of the state remained an ongoing challenge for the 2010s.

The Government taking office in 2010 decided among its first actions to create a single governmental website (www.kormany.hu) which contains all data of public interest about all ministries, provides a forum to inspect and comment on draft legislations under preparation, and also gives information on major governmental measures. The internal crime prevention and criminal investigation activities of law enforcement agencies are now reinforced by the National Protective Service which performs checks on reliability and irreproachability. The recently adopted Criminal Code introduced stricter punishments for corruption-related crimes and adjusted them to international requirements.

Based on the results of the Integrity Project, which was launched by the State Audit Office in 2009 to analyse corruption risks and popularise an integrity-based organisational culture, in 2012 the Government adopted a comprehensive programme on preventing corruption in public administration and decided to start a priority project to implement this programme from EU sources with a total budget of EUR 2.35 mn. Results of the project include that anti-corruption knowledge now forms part of the National Core Curriculum, the National University of Public Service now offers a postgraduate course on integrity consultancy, the measuring of corruption risks has been integrated into the strategic planning process and into

the preparation of governmental decisions. The proposal on the code of ethics for public officials has been prepared, and preparatory works for the single whistleblower protection regulation have been started.

Within the framework of the project, Hungary joined the Open Government Partnership initiative and developed its action plan after consulting with and based on the proposals of NGOs. The preparation of the action plan gave a good opportunity to establish regular high-level meetings with NGOs dealing with anti-corruption, to introduce continuous social control over relevant governmental policies and track the implementation of such policies.

III. Hungary's commitments regarding the further development of open governance

In line with its Open Government Partnership Declaration of Principles, Hungary's commitments on open governance are primarily linked to the improvement of the integrity of public administration agencies but they also touch on the fields of improving the quality of public services and improving the efficiency of using community resources.

A specific feature of Hungary's commitments is that they are not treated as separate measures but are integrated into the Government Decision on anti-corruption. This solution has the advantage that the commitments relating to open governance can be implemented as an integral part of a ready-made programme to which appropriate financial and personal conditions are provided.

1) Improving the publicity of fiscal data

In order to provide better information to citizens about fiscal issues, Hungary undertakes to present the data of the draft central budget and its amendments as well as the actually implemented budget through figures and charts as well, broken down to items according to Level 2 of the COFOG (Classification of the Functions of Government) developed by the United Nations.

Deadline: 30 June 2013

2) Improving the searchability of public procurement data

In order to secure the publicity of public procurement data, Hungary undertakes to ensure that public procurement announcements and communications (data published in relation to public procurement tenders in an official journal or on a central state website for public procurement tenders as required by statutory provisions) are disclosed in a way that every single contractor (except for the case of legal succession) is allocated a permanent unique identification code and every single public procurement procedure is allocated a unique identification code that is permanent in the given procedure. This will make it easier to search and query any disclosed public procurement document based on the unique identification code of the agency or procedure in question.

Deadline: 30 September 2013

3) Improvement of the publicity of contracts concluded for the utilisation of public property and with the use of public funds

In order to improve the publicity of contracts concluded for the utilisation of public property and with the use of public funds, Hungary undertakes to provide for the following even through legislative amendments, if necessary:

- a) the examinations of independent and governmental state organs authorised to carry out compliance checks should always extend to compliance with disclosure obligations;

Deadline: 30 June 2013

- b) experience gained concerning the implementation of the Public Procurement Act as well the rules of national and community budgetary financial assistance should be reviewed, with special respect to compliance with statutory provisions on the freedom of electronic information and paying special attention to the form and content of the eventual further increase of publicity;

Deadline: 30 June 2013

- c) the utilisation of local government property and procurements should be discussed in open meetings, except for meetings convened for the evaluation of tender procedure results where the bidder or applicant excluded the disclosure of part of its application because it qualifies as business secret which relates to its own activities but does not relate to substantial elements of the contract to be concluded, or if an open meeting would breach secrecy of a business company owned by the local government;
- d) public motions by local government bodies should be disclosed on the local government's website after sending out the invitations and together with such invitations.

Deadline: 30 June 2013

4) Integrity control system in the public sector

- a) Hungary undertakes to ensure the participation of public sector organisations and state-owned business companies in the Integrity Survey of the State Audit Office.

Deadline: 31 May 2013

- b) Hungary undertakes to introduce an integrity control system into the central public administration.

Deadline: 31 December 2013

- c) Hungary undertakes to create the institutional system for the protection of whistleblowers.

Deadline: 30 June 2013

- d) Hungary undertakes to determine the rules of keeping contact between state organs and interest representation groups.

Deadline: 30 June 2013

- e) Hungary undertakes to ensure the pre-decision analysis of corruption risks of motions to be discussed by the Government and draft ministerial decrees, within the framework of a preliminary impact assessment.

Deadline: Continuous

- f) Hungary undertakes to prepare Codes of Professional Conduct for government officials and law and order personnel in a form approved by competent public corporations independent from the Government.

Deadline: 31 July 2013

5) Dissemination of information on anti-corruption and integrity

- a) Hungary undertakes to provide training for public officials in the topics of integrity, anti-corruption and ethics.

Deadline: Continuous

- b) Hungary undertakes to provide, within the training system of state organs, trainings elements for public administration, local government and judicial sector workers on the freedom of information which also give a clear guideline for the independent, proactive disclosure of data of public interest.

Deadline: 31 December 2013, and continuous thereafter

- c) Hungary undertakes to launch a credible, transparent, cost-efficient awareness raising campaign which builds on the involvement of citizens and NGOs and provides information differentiated by target groups, in order to increase the knowledge and consciousness of members of society about corruption phenomena as well as the attitudes and counter-measures that may be applied against them.

Deadline: 22 February 2013, and continuous thereafter

- d) Hungary undertakes to ensure that the values and knowledge relating to corruption phenomena as well as the attitudes and counter-measures that may be applied against them are incorporated in school education, including the revision of course books in this topic and amplifying them with anti-corruption information.

Deadline: 01 September 2013, and continuous thereafter

Appendix

Hungary's achievements in the field of open governance since 29 May 2010, when the present Government took office

- **Creation of a single governmental website**

After taking office in 2010, the Government immediately started the preparations of launching a new single governmental website. The www.kormany.hu contains all data of public interest about all ministries, provides a forum to inspect and comment on draft legislations under preparation, and also gives information on major governmental measures.

- **Development of the Anti-Corruption Programme in Public Administration and the related governmental measures**

By Government Decision 1104/2012 (6 April) (hereinafter: "Anti-Corruption Decision"), in March 2012 the Government, upon motion of the Ministry of Public Administration and Justice and following consultation with NGOs, adopted the most comprehensive anti-corruption programme of the past period. The programme analyses the Hungarian corruption situation and in relation to this it prescribes measures in nearly 20 fields for implementation by the competent ministers. The programme's major novelty is that (in addition to emphasizing the importance of criminal prosecution) it puts the main focus on the prevention of corruption and the strengthening of corruption resistance of organisations.

- **Integrity Project (State Audit Office)**

The Integrity Project (<http://integritas.asz.hu>), which was launched by the State Audit Office from EU funds, primarily aims to map corruption risks in the public sector and to contribute to a stronger integrity-based public administration culture. The main element of the project is the risk map which is based on the voluntary supply of information by budgetary organs given in response to survey questions. This will serve as a basis for calculating three risk indicators using a risk methodology developed by the State Audit Office. Data relating to budgetary organs are available to anyone on the internet in the form of a Corruption Risk Map, but the project website also gives processed information broken down to organisations and issues. In order to popularise the integrity-based approach in the public administration in 2011 altogether 221 persons were trained in small groups in connection with the project. As a good European example, the Integrity Project efficiently integrates the characteristics of innovative IT solutions which strengthen citizen participation and features of a transparent and responsible public administration. The risk map created this way is capable of measuring the corruption risks of budgetary organs, clarifying the operation of budgetary organs, and contributing to the development of control methodologies and to the shaping of citizens' and public officials' attitude to corruption.

- **Launching a priority project in the topic of anti-corruption**

In order to ensure the financial background of the implementation of the tasks set out in the Government Decision and of the OGP Action Plan, the Government adopted Government Decision 1136/2012 (2 May) whose Annex 1.1.21 specified anti-corruption as a priority project with a budget of HUF 480 mn. On proposal of the Ministry of Public Administration and Justice which prepared the project, in its Decision 1346/2012 (7 September) the Government decided to increase the budget

with a significant amount to HUF 680 mn. [Subsequently, Government Decision 1136/2012 (2 May) became unnecessary so it was repealed.] In July 2012 the Ministry of Public Administration and Justice (KIM) started to prepare the proposal for the priority project SROP-1.1.21 “Prevention of corruption and the revision of public administration development” in which the National University of Public Service participates as consortium partner. KIM as project owner submitted the project proposal on 28 September 2012 and fully remedied the notified deficiencies. On 1 December 2012 the intermediate body sent to KIM the assistance contract which was signed on 14 December. By launching and supporting one of the largest anti-corruption priority project in Europe, the Government secured the financial sources and organisational frameworks which are necessary for the implementation of the objectives set out in the Government Decision (irrespective of the conditions of the central budget).

- **Cooperation with NGOs**

The Government's anti-corruption policy is developed in the framework of constant consultation between the KIM and the representatives of competent NGOs. This process began during the preparation of the Anti-Corruption Programme and gained fresh impetus with the preparation of the OGP Action Plan. In line with the requirements of the Open Government Partnership, headed by the secretary of state for public administration of KIM and involving NGOs, high-level consultation was started on 15 December 2012 and later on 18 January and 15 February 2013 which will be followed by subsequent regular meetings every month.

- **Educational cooperation with the National University of Public Service**

KIM engaged the National University of Public Service as consortium partner in the implementation of the SROP-1.1.21 project. As a result of this, the development of modern syllabuses and trainings makes it possible to renew the training structure of the university. From September 2013 anti-corruption and integrity related knowledge will be integrated in the syllabus of public service graduate courses. As a result of the preparatory work performed together with KIM, in February 2013 a new postgraduate course in integrity consultancy will be launched with the participation of nearly 50 students and another 50 students in September 2013. The participants of the postgraduate training, which is quite novel in Hungary, may significantly increase the number of professionals dealing with integrity and anti-corruption. This makes it possible to use such professionals in ministries and government agencies to strengthen the efficiency of anti-corruption measures.

- **Green Paper on fields that should be reasonably regulated in codes of conduct**

Based on available professional material and international recommendations, KIM prepared the draft version of the Green Paper on codes of conduct. This was approved by the members of professional work groups composed of state organs workers. The material was also consulted with the Secretariat of the Preparatory Committee of the Hungarian Chamber of Government Officials. Following approval, the Green Paper may serve as a basis for the preparation of the codes of conduct by the competent professional public corporations. After nearly two decades, ethical requirements for public service officials will now take the form of applicable codes that can be applied in real life.

- **Proposal on the correction of the regulation of whistleblower protection**
After reviewing the legal situation, KIM experts examined the possible ways of revising the currently effective regulations. During this process they significantly relied on the background materials prepared by Transparency International Hungary, including the “Concept for the legal regulation of whistleblowing”. According to the KIM's position, the system of whistleblowing (public interest disclosure) has to be developed along the lines of the following principles: general nature, elimination of mala fide whistleblowing, ensuring anonymity, interoperability among certain legal instruments created for the protection of whistleblowers, ensuring electronic applications, data security and subsidiarity. According to the Ministry's position, the central level of the protection of whistleblowers shall not be ensured by a new office but shall be integrated into an organ which is capable of fulfilling this task based on its legal status and competence. To this end, the ministry consulted with organs that meet this requirement. In order to facilitate professional consensus, the KIM held a seminar with the participation of OECD experts on 31 October 2012 for the workers of administrative agencies. The event was called “Enhancing Whistleblower Protection”.
- **Preparation of preliminary impact assessment in respect of the analysis of corruption risks of motions to be discussed by the Government and draft ministerial decrees**
The proposal on the amendment of the impact assessment template, which was prepared by KIM, was discussed by the working group of civil experts in its meeting on 2 August 2012 and approved with proposals for minor modifications. The template was created with due consideration of these proposals, currently the integration into the revised template and the testing of the amendments are in progress. The new template complemented with the corruption risk elements is expected to take effect and started to be implemented in Q1 of 2013.
- **Agreements between state organs on anti-corruption cooperation**
KIM involved all stakeholders, including NGOs, in the implementation of the Anti-Corruption Programme by inviting them to the coordination and expert work groups. Although current experience shows that cooperation in the field of anti-corruption works properly in a formal framework, without concluding agreements regulating cooperation, it became necessary to formalise cooperation in certain areas. An example to this is the cooperation agreement concluded between the State Audit Office and the National University of Public Service on 28 June 2012, in the framework of which the State Audit Office gives the university access to course material developed under the Integrity Project. Another example is the consortium agreement between the KIM and the said university.
- **Introducing the function of “person in charge for integrity” and the underlying integrity control system in state organs**
The introduction of the function of “person in charge for integrity” and the integrity control system is in the preparatory phase. The Office of Public Administration and Justice (supervised by KIM) and the National Development Agency, as a coordinated effort with the priority project SROP-1.2.18. “Organisational Development Programme”, intends to launch a single pilot project to develop and implement the

elements of the integrity control system. The KIM's Procedural and Organisational Rules (being the first among administrative organs) specifies the function of the head of the administrative organisation, i.e. the integrity consultant who operates under the direct supervision of the secretary of state for public administration of KIM.

- **Trainings on integrity and anti-corruption within the public administration**

By involving the National University of Public Service in the anti-corruption project the Ministry aims to foster the best possible integration of planned trainings into the public service training and further training structure. Although the further training system is currently under reorganisation, the ambitions of the university's leaders complies with the KIM's efforts.

The anti-corruption project provides funding for the university for developing graduate and postgraduate syllabuses in the topic of anti-corruption and for fulfilling educational organisation tasks.

From February 2013, to support the introduction of the integrity control system, a 2-semester postgraduate course will be launched in integrity consultancy, in every semester, with an expected student participation of 50 persons per course. KIM experts have prepared their proposal for the syllabus structure. This was used by the university to develop training requirements which was approved by the competent authority.

As the first step of the anti-corruption trainings of the central public administration, excluding professional seminars organised jointly with the OECD, from August 2012 all scholarship students participating in the Hungarian Public Administration Scholarship Programme (altogether 150 persons) will attend to the on-line course "Anti-corruption with integrity management tools" developed by the State Audit Office. The students will be tutored by the KIM's expert.

- **The new Criminal Code**

Adjusted to the date on which the new Criminal Code entered into force, the KIM has revised Act CIV of 2001 on Measures Applicable to Legal Entities under Criminal Law. During the revision process, taking into consideration MONEYVAL and OECD Working Group on Bribery recommendations, we intend to significantly extend the objective scope of the Act so that it covers cases where the crime was committed by using the legal entity. In addition to this, the legislator significantly widens the set of cases where measures may be taken against the legal entity even if the criminal responsibility of the legal entity cannot be established but the fact of that a crime was committed is evident. After the coming into force of the amendment, the law may be applied to cases where the criminal responsibility of the individual perpetrators cannot be established (e.g. the investigation failed to identify the perpetrator; the perpetrator is not punishable due to his death, insanity, active repentance or the fact that he was motivated by force or threat; or the proceeding is suspended due to failure to indentify the identity or the location of the perpetrator). In cases where measures may be taken against the legal entity but the prosecutor or the investigation authority has suspended or terminated the investigation against the individual, the draft determines new procedural rules.

- **Integrity and anti-corruption in the National Core Curriculum**

For laying the long-term foundations of efficient fight against corruption, it is crucial to include in the National Core Curriculum the values and knowledge relating to corruption phenomena as well as the attitudes and counter-measures that may be applied against them. Pursuant to Government Decree 110/2012 (4 June) on the publication, introduction and application of the National Core Curriculum, and in compliance with the KIM's recommendations, ethics courses to 9-12 grade students incorporate "The issue of community and social corruption" as a significant element. These educational goals are further detailed by framework curricula for grades 5-8 and 9-12. Thus, the new National Core Curriculum, coming into force on 1 September 2013, can ensure that all elementary and secondary school students meet these key social problems during their studies.

- **Creating the National Protective Service**

The National Protective Service (NPS) was founded on 1 January 2011. The establishment of a single organisation that pursues internal crime prevention and criminal investigation activities was justified by professional demand faced by law enforcement agencies, and the need for efficient prevention and exploration of corruption. A key task of NPS is to reduce corruption, prevent organised criminal groups from gaining ground within law enforcement agencies, perform high-level intelligence activity, and organise adequate protection for its employees at risk due to their function and to their families. The legal ground of the operation of NPS was established by the Act on the Amendment of Certain Law and Order and Related Acts. This Act inter alia amended the Police Act, the Service Act for Employed Personnel, the Prosecutors Act, the Act on the Legal Status of Public Employees, the Act on the Legal Status of Public Officials, and introduced the legal instrument of "irreproachable civil life". These measures introduced the application of protective instruments that go well beyond the classic investigative activity of the legal predecessor.

- **Reusing public data**

Act LXIII of 2012 on Reusing Public Data was adopted by Parliament in order to improve the transparency of the system of currently recorded public data and its accessibility to the market. The Act aims to make these data bases available for a larger group of citizens and make it possible to sell these data bases to actors in the market. In order to make the legal environment and these central data bases kept under the relevant legal regulations suitable for the secondary utilisation of data recorded therein, it is necessary to map currently used central data bases and adopt a proposal on the future utilisation of the data property. To this end, within the framework of the State Reform Operational Programme, the Ministry of Public Administration and Justice launched with a budget of HUF 80 mn the SROP-1.2.17-2012-0001 project titled "Revision of legislation concerning data and information services", which will be implemented by 31 August 2013.

- **Renewal of the policy planning system**

By Government Decree 38/2012 (12 March) on Governmental Strategic Control, Hungary has introduced a new governmental strategic control system which, in addition to the development of strategies and programmes, places great emphasis on the coordination, implementation and monitoring of the content of adopted plan documentation, as well as on the publicity of such documentation.