

**NATIONAL ANTI-CORRUPTION  
PROGRAMME**

**(2015-2018)**

**2015**



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## EXECUTIVE SUMMARY

Increasing the trust in the state and the resistance of public administration to corruption by detecting corruption and calling the culprits to account has been one of the most important tasks of the Government ever since its establishment.

The “Corruption Prevention Programme of the Public Administration”, adopted by the Government Decision No. 1104/2012 (IV. 6) *on the government actions against corruption and the adoption of the Corruption Prevention Programme of the Public Administration* [hereinafter Government Resolution No. 1104/2012] set the primary goal of reducing corruption in the public administration and in certain public services for the period of 2012-2014. The National Anti-Corruption Programme (2015-2018) (hereinafter referred to as “the Programme”) intends to continue the same concept while orientating actors outside the Government in line with the Programme’s general objectives.

The Programme lays down the main principles of government actions against corruption, the theoretical and methodological basis required for setting the lines of action, defines the general objectives, and also covers connections and delineation. In the situation assessment, , the Programme summarises the development of anti-corruption measures taken in Hungary and the government measures taken for the prevention of corruption; presents corruption analyses and indices; touches upon the findings of international organisations; and finally, reviews the main international anti-corruption and integrity trends.

It takes into account the views and proposals of public administration actors and independent state agencies bearing special responsibility in the fight against corruption.

The general objective of the Programme is to make the management of public funds more transparent, to develop regulatory proceedings, to establish regulations that promote the transparency of the business sector, to extend education and training programs, to raise awareness, and to provide resources in staff and equipment necessary for the effective fight against corruption. The Government expects from the measures applied in the above listed areas to strengthen the resistance capability of organisations and individuals against corruption in the medium term.

The review of related legal regulations, training programs, education and information campaigns constitute an instrument for obtaining the above-mentioned objectives. The Programme sets objectives for the public sector, state-owned companies and the business sector as well as the whole society. The Programme also relies on and expects intensive co-operation between the public administration and the civil society.

# 1. INTRODUCTION

## 1.1 Mandate

Pursuant to Section 35 (2) a) of Government Decree 38/2012 (III. 12) *on Strategic Management by the Government* [hereinafter Government Decree 38/2012 (III. 12)] the Government decides on starting the development of policy strategies and on their adoption. Section 39 (2) of Government Decree No. 152/2014 (VI. 6) *on the tasks and competences of the members of Government* designates the Minister of Interior as the minister responsible for co-ordinating the government tasks relating to anti-corruption. The Minister of Interior holds the governing right over the agency involved in the performance of anti-corruption related tasks.

According to Section 13/A a) of Government Decree No. 293/2010 (XII. 22) *on the designation of the police agency performing internal crime prevention and detection tasks and the detailed rules of the performance of such tasks, the lifestyle monitoring and integrity checks* [hereinafter Government Decree 293/2010 (XII. 22)], the government strategy against corruption is to be prepared and submitted to the minister responsible for police (the Minister of Interior) by the National Protective Service (hereinafter NPS).

## 1.2 Authors

Pursuant to the provisions of Government Decree No. 293/2010 (XII. 22), the Programme was prepared by the NPS. The NPS also takes part in the implementation of the measures laid down in the Programme and the monitoring of its implementation.

## 1.3 Planning context

This Programme complies with the rules laid down in Government Decree No. 38/2012 (III. 12) and follows the guideline based on the Gov. Decree No. 38/2012 as the methodology for formulating a strategy both in terms of content and formal requirements.

## 1.4 Term

This Programme is a mid-term sectoral policy strategy: in line with the Government's term it, defines tasks for corruption prevention until 2018 yet its main principles and objectives go beyond this term. The action plan related to the Programme assigns responsibilities and deadlines for the implementation of each concrete measure until 31 December 2016.

## 1.5 Applied methodology

The authors of the Programme intended to create a complex strategic document that takes into account the Hungarian and international situation as well as the projected future trends and defines measures for the next four years in relation to legislation, organisation development, training, attitude shaping, awareness raising, and the promotion of the required overall social actions in the prevention of corruption and promoting integrity.

In order to achieve that, primarily the following analytical techniques were used during the elaboration of the Programme:

- review of the experience of implementing the anti-corruption measures adopted by Government Resolution No. 1104/2012 (IV. 6) and the strategic document titled "Corruption Prevention Programme in the Public Administration 2012-2014";
- assessment of the needs of the public administration bodies and independent public agencies bearing special responsibility in the fight against corruption [State Audit

Office, Kúria (the supreme court), General Prosecutor's Office, Commissioner of Fundamental Rights, National University of Public Service and ministries] articulated upon the request of the Minister of Interior

- assessment of results of the questionnaire-based survey made during the integrity training programs held by the National University of Public Service;
- analysis of the statistical data on crimes against the transparency of public life and corruption pursuant to the former Criminal Code;
- review of the findings and recommendations of international organisations concerning the implementation of anti-corruption treaties (UN, Council of Europe, European Union and OECD);
- review of analyses, indices and rankings focusing on corruption or closely related phenomena (e.g., EU Anti-Corruption Report; Transparency International Corruption Perception Index);
- overview of the results of Hungarian and international researches and publications focusing on corruption and integrity.

## 2. PRINCIPLES OF THE PROGRAMME

### 2.1 Definitions

For the purposes of this Programme:

- **Corruption** refers to the acts defined in Chapter XXVII of Act 100 of 2012 *on the Criminal Code* (hereinafter Criminal Code) as well as any the social phenomenon when someone abuses power vested in him/her in order to gain any private or group advantage.
- **Integrity** refers to intactness, impeccability, incorruptibility and purity. Integrity is a concept used in relation to organisations and individuals.

With regard to organisations, integrity means that a particular organisation operates according to its declared values and principles, i.e., in the case of public administrative agencies it means that they comply with objectives of public interest laid down in the law establishing them. Organisational integrity generally refers to the presence of all the following values: responsibility and accountability, fair procedure, non-discrimination, value-based principles and transparency.

At an individual level, integrity refers to a type of conduct that complies with specific values, i.e., the individual behaves and acts objectively and reasonably, in line with his/her own set of values.

### 2.2 Theoretical and methodological basis

The authors of the Programme relied on the following theoretical and methodological principles:

- Corruption stems from the dysfunctional operation of social institutions and, as it undermines the public trust in these institutions, has a detrimental impact on the rule of law, on democratic values and principles, reduces competitiveness and the revenues of the state and increases crime. Corruption is a serious threat to the stability and security of society. Unless actions are taken against it, corruption may cause long lasting, deeply penetrating economic and social damages that put a huge burden on the life of people.
- Countering corruption is not just the responsibility of the Government. In order to make this effort successful, apart from the outstanding role taken and the good

example set by the Government, the extensive social co-operation, support, commitment and responsibility are also key factors.

- The Programme interprets “*corruption*” as the deterioration of organisational operation, manifested in various unethical acts, irregularities and crimes. Its opposite is the operation based on accountability, development of professional and management competencies and the following the declared values, i.e., characterized by integrity.
- The fight against corruption cannot be successful in the long term if only criminal law instruments are used. Apart from enforcing the need of punishment, equally effective preventive measures aimed at individual, institutional and system levels are needed. Thus any effective anti-corruption action should be based on the balance of repressive and preventive instruments.
- Parallel with social and economic changes, the form of corruption also changes, and therefore counter-actions have to be based on the continuous research of corruption and making social institutions resistant to new corruption phenomena.
- As corrupt practices, patterns and methods are passed on from generation to generation, organisation development, training, shaping of attitude and awareness raising at society level is an indispensable factor in preventing the continuation of corruption.
- The Programme does not intend to create a central anti-corruption authority or introduce a comprehensive anti-corruption act. Instead of creating new instruments, the Programme aims at modifying and fine-tuning the available legal instruments, strengthening the co-operation between existing organisations and promoting the more effective implementation of regulations in effect; believing that the efficiency of anti-corruption measures depends on the co-operation and consistency between key stakeholders and not on the competences centralised in the hands of certain key actors, or by the quality of a particular legal instrument.
- In addition to the mandatory requirements and potential sanctions, the objectives set here can be achieved most effectively by encouraging and motivating the stakeholders.
- Hungary is open to co-operation with other countries and international organisations and the adaption of good practices both during the drafting and implementation of the Programme, and also intends to assist anti-corruption efforts abroad by sharing its experience and viable solutions.

### **2.3 Objective**

The Programme envisages the reduction of the social phenomenon of corruption primarily by strengthening the public trust in the operation of public agencies; by promoting compliant and value oriented operation of legal entities and other organisations using public funds; by supporting the commitment of citizens towards democratic values and actions against abuse and infringement; by improving the competitiveness and international evaluation of the country, by protecting the financial interests of the European Union and our country and by strengthening definite and effective actions against perpetrators.

### **2.4 Connections and delineation**

The Programme applies an overall approach to the prevention of corruption and sets priorities by defining objectives. As it is a national strategy, the Programme concentrates on the territory of Hungary, i.e., it defines the necessary measures based on the national background and situation assessment. Nevertheless, it also takes into account the findings and recommendations of international organisations monitoring the implementation of anti-corruption treaties, the anti-corruption efforts of the European Union and the requirements

concerning the protection of its financial interests, the main trends and assessed risks, as well as the international and domestic best practices in corruption prevention.

Anti-corruption policy is a complex and horizontal field, intertwined with numerous other policies. The most important policy areas that anti-corruption policy has links with are criminal policy, law enforcement, competitiveness, municipalities, public administration development, transparency and public data management, education, sustainable development. Therefore during its implementation, increased attention must be paid to consistency with these policy areas. Efficiency depends a great deal on the co-ordination of the planning of the actual tasks and their co-ordinated implementation.

The prevention and management of certain corruption related crimes demand special preparedness from the public agencies, and therefore they are outside the focus of the National Crime Prevention Strategy (2013-2023). Nonetheless, in order to create consistency, the requirements laid down in the National Crime Prevention Strategy must also be taken into account during the performance of corruption prevention related tasks.

During the implementation any measures on corruption prevention and integrity, the objectives of the State Reform II - State Household Cost Reduction Plan 2015 Programme must be taken into account. It must also be ensured that part of the measures that support the realization of the objectives laid down in the Programme can be implemented through European Union funded projects within the framework of the Public Administration and Development Operational Programme (hereinafter PADOP).

The Programme also takes into account the core requirements of the Public Administration and Public Service Development Strategy (2014-2020) in terms of developing a transparent institutional structure with an ethical staff, and simultaneously creating a service providing state that enjoys the trust of the people.

### **3. SITUATION ASSESSMENT**

#### **3.1 Historical overview of the fight against corruption**

By joining the European Union, Hungary undertook an obligation to transpose the international anti-corruption treaties into the Hungarian legislation and to strengthen the transparency of the operation of the state. This political endeavour created the anti-corruption government policy and promoted the approval of the first government resolution on anti-corruption.

Government Resolution No. 1023/2001 (III. 14) on the Government Strategy against Corruption primarily followed a legal approach and divided the main measures into two groups, criminal law related tasks and tasks relating to other laws, that were supplemented those with some other measures.

Hungary joined the most important anti-corruption treaties as a result of this period<sup>1</sup>.

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<sup>1</sup> Act XXXVII of 2000 promulgated the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; Act XLIX of 2002 promulgated the Criminal Law Convention on Corruption of the Council of Europe, Act L of 2004 promulgated the Civil Law Convention on Corruption, while Act CXXXIV of 2005 promulgated the UN Convention against Corruption.

In 2010, Hungary took part in the establishment of the International Anti-Corruption Academy and provided financial support to its activities.

Act XXIV of 2003 *on the amendment of certain acts on the use of public funds, publicity and transparency of the use of public property and extension of controls* (known as the “glass pocket act”) translated the principles on the publicity of data of public interest into deeds by introducing the requirement to publish data pertaining to the operation of public organisations on official websites based on to general and individual lists of disclosures. The same principles are now reflected in Act CXII of 2011 *on the Right of Informational Self-Determination and the Freedom of Information* (hereinafter Freedom of Information Act) and in the judicial practice.

The “Twinning Light” project of the State Audit Office and the Dutch Audit Office conducted between 2007 and 2008 assessing the adaptability of the Dutch methodology for strengthening the integrity of public sector institutions in Hungary should also be noted here. Continuing this “Twinning Light” project, the State Audit Office launched its ÁROP-1.2.4 “Mapping Corruption Risks - Strengthening Integrity Based Administration” priority project (so-called *Integrity Project*). The Integrity Project assesses the corruption risks inherent in the operation of state agencies/bodies by using an electronic questionnaire and publishing the results in a structured database, accessible on the internet for anyone. The project also included the elaboration of training and e-learning programs.

Following the parliamentary elections in 2010, the Government appointed a government commissioner responsible for accountability and government anti-corruption tasks, who examined former abuses committed at state-owned companies as well as the mismanagement of state-owned lands.

#### ***Government measures taken to prevent corruption and strengthen integrity between 2011 and 2014***

The Fundamental Law (*constitution*) that entered into force on 25 April 2011 brought major changes in the attitude towards the management of public funds. The Fundamental Law states that Hungary follows the principle of balanced, transparent and sustainable budget management, where everybody has the right to access and disseminate data of public interest. The provisions of the Fundamental Law concerning public funds are further specified in the related cardinal acts, mainly in the cardinal Act on National Assets.

The Act *on the Amendment of Certain Acts on Law Enforcement and Related Activities* extended the crime prevention and detection activities defined in Act XXXIV of 1994 *on the Police* (hereinafter Police Act). The most important task of NPS, established on 1 January 2011, is to reduce corruption, to prevent the expansion of organised crime within law enforcement and public administration agencies, to continue high-quality detection work and to organise sufficient protection for people working at law enforcement agencies and certain government agencies, including their family members, who are at risk due to their profession.

The Minister of Public Administration and Justice, the President of the State Audit Office, the President of the Kúria (the supreme court) and the Prosecutor General signed a joint declaration on 18 November 2011 on co-ordinated and effective state action against corruption.

Government Resolution No. 1104/2012 already reflects the major change in approach which focuses not only on criminalisation, but also on prevention and the strengthening of the ability of organisations to resist corruption as an instrument for combating corruption. To support the implementation of the Corruption Prevention Programme of the Public Administration 2012-2014 (adopted by Gov. Res. No. 1104/2012), the Ministry of Public Administration and Justice, in consortium with the National University of Public Service, launched a priority project with a total budget of HUF 680 million titled ÁROP 1.1.21 „Corruption Prevention and the Overview of Public Administration ” in December 2012.

In practice, the abovementioned change in approach became embedded in practice when Government Decree No. 50/2013 (II. 25) *on the system of integrity management at public administration bodies and the procedural rules of receiving third parties representing private interest* [hereinafter Government Decree 50/2013] was adopted. Government Decree 50/2013, in view of the OECD paper on the integrity framework published in 2009, makes the operation of the integrity management system the responsibility of the head of the organisation, who is assisted by an integrity advisor in this work.

The Government Personnel Strategy (Government Resolution 1336/2011 (X. 14) *on certain short-term measures aimed at social cohesion*) and the Government Resolution 1004/2013 (I. 10) *on certain tasks relating to the preparation for the introduction of the public service career* were approved in order to lay down the foundation of and harmonize the life-long public service careers for the personnel of public administration, law enforcement and home defence. During the 2010-2014 government term, the decisions setting out the major development trends in the legal status, remuneration, obligations and further training of the main employment groups of the public sector (public administration, law enforcement, home defence) meant a sufficient starting point for introducing new life-long careers in public service, which are also necessary for strengthening integrity. The transformation of the system of obligations of government officials and public servants (including the establishment of the Hungarian Government Officials Corps, more stringent conflict of interest and disciplinary systems, transformation of the system of legal disputes and clarification of titles of exemption) took place with the adoption and entry into force of Act CXCV of 2011 *on Civil Servants of Public Services* (CSPS Act) for public administration in terms of public law.

The most important task of the 2014-2018 government term is to implement the new life-long career programme within the public service in respect of the groups referred to above. The related concept paper and proposal has been discussed and approved by the State Reform Committee and then was approved by Government by adopting Government Resolution No. 1846/2014 (XII. 30) *on the introduction of the new life-long career in public service* [hereinafter Government Resolution 1846/2014 (XII. 30)].

In order to enable government officials to learn about the prevention of corruption, the National University of Public Service has introduced corruption prevention into its bachelor and master program curricula and launched a two-semester further training program for integrity advisors. This training series has been one of the largest public service further training series of the last few decades, the novelty and innovation of which has also been highlighted by the European Commission in its EU Anti-Corruption Report published in 2014<sup>2</sup>. The Centre for Excellence in Integrity, established within the National University of

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<sup>2</sup> [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014\\_acr\\_hungary\\_chapter\\_hu.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_hungary_chapter_hu.pdf) p.3

Public Service in 2013, also contributes to the sustainability and further development of the knowledge and information accumulated in the course of the training programs.

According to the Decree of the Minister of Interior No. 2/2013 (I. 30) *on the further training and management training system of the members of the official personnel of agencies reporting to the Minister of Interior and on the replacement and management data bank of law enforcement*, the purpose of central law enforcement and management training is to provide up-to-date information to the members of the official personnel and to support the development of the basic competences of law enforcement managers.

The Directorate for the Development of Public Service Personnel of the Ministry of Interior, which operates as a methodology and quality control centre of the further training system, co-operates with the National University of Public Service in the co-ordination of the public service further training system and the further training system for the official personnel of the agencies of the Ministry of Interior, in the development of registered further training programs, the training and further training of trainers as well as in the management training and talent support.

As a government agency performing administrative and law enforcement involving the use of firearms, the National Tax and Customs Administration (hereinafter referred to as NTCA) employs government officials and official personnel as well. Such employees are trained by the Training, Health and Cultural Institute of NTCA. NTCA has integrated information on anti-corruption in its training system for newly recruited government officials. Moreover, numerous specific programs (tax inspectors, finance guards) cover corruption and aim at developing the competences of government officials and the members of the official personnel.

The scope of Government Decree No. 273/2012 (IX. 28) *on the further training of public service officials* extends to public administration agencies referred to in Articles 1 and 2 of the CSPA Act as well as the government officials and public servants employed by those agencies and any other agency or individual listed in the Government Decree. The purpose of further training of the members of staff falling within the scope of the Government Decree is to acquire general public administration professional and management skills, to enhance their knowledge and to support their preparations for the public administration exam. An important component of the further training is to provide up-to-date information during the whole life-long career in public service.

In order to promote the establishment of a value-based public sector, the Government prepared a Green Paper on the ethical requirements at public agencies. The Green Paper served as a guide for public service corps established in 2012 and state agencies in preparing their own code of conduct tailored to their organisations. The Code of Conduct of Government Officials and the Code of Conduct for Law Enforcement and the related Regulations on Ethics Procedures entered into force in 2013.

The inclusion of the topic of community and social corruption in the curriculum of the subject of ethics within the framework National Core Curriculum in 2012 has been an important step forward.

Certain provisions Act CLXXXIX of 2011 on local governments (hereinafter referred to as Local Government Act) should also be highlighted as they have anti-corruption aspects.

Pursuant to the provisions of both the Fundamental Law and the Local Government Act, the Government supervises statutory compliance of local governments and their operation with the help of Budapest and County Government Offices. These agencies can monitor and, when applicable, sanction problems detected in the operation of local governments and may also arrange for the replacement of certain decisions within the framework set out in the Local Government Act (Articles 132-142).

The Local Government Act contains a separate sub-title regulating the internal control system of local governments and setting out the statutory rules of economic control of local governments (Articles 119-120). It lays down rules on conflict of interest for the elected officials, and regulates the content of the asset declarations to be submitted by members of the local councils and mayors and the related procedure (Articles 36-40).

As a commitment undertaken in Government Resolution 1104/2012 (IV. 6), a new regulation was passed with a more comprehensive content on complaints and reports of public interests. Thus Act CLXV of 2013 no longer just enables anyone to turn to the competent agency with a complaint or report of public interest, but also provides for a protected electronic system operating under the supervision of the Commissioner of Fundamental Rights for making complaints and reports. In addition, the Act also lays down guarantee rules in relation to the operation of reporting systems operated by companies.

In 2012, the Government entered into a public administration development framework agreement with the OECD, based on which the OECD contributed to the development of the Hungarian policy with the seminars, advisory and written assessments during 2012 and 2013. Hungary joined the Open Government Partnership (OGP) initiative in 2012, as a result of which it prepared its national action plan by February 2013. The OGP action plan primarily contained commitments related to integrity. The self-assessment report on the implementation of the action plan has already been completed and an independent evaluation also took place in spring of 2015.

Important progress has also been made in party financing and campaign financing. From the of Act XXXIII of 1989 *on the operation and financial management of parties* (hereinafter Party Act), Act XXXVI of 2013 *on election procedures* and Act LXXXVII of 2013 *on the transparency of campaign expenditure related to the election of Members of Parliament*, the following provisions should be highlighted.

Political parties have been prohibited from accepting contributions from domestic legal entities or organisations without legal personality (previously the same prohibition only applied to legal entities funded from the state budget). Parties cannot neither accept financial support from other states or foreign organisations, or from natural persons who are not Hungarian citizens. In line with the provisions of the law, any donation over five hundred thousand forints made in one calendar year must be specifically stated in the financial statement, indicating the donor and the amount. Accepting contribution from non-identifiable origin has also been prohibited. Those media who agreed to publish political advertisements will have to report the cost of advertising to the State Audit Office (SAO) within five working days. The SAO shall publish this information. Each candidate and nominating organisation must disclose the amount, source and method of utilisation of the state support, other funds and financial assistance used for the parliamentary elections in the National Gazette within 60 days after the parliamentary elections.

Act LXVI of 2011 on the State Audit Office obliges agencies under the monitoring of the SAO (also including political parties) to co-operate with the SAO as, ultimately, the SAO

may launch a disciplinary or criminal procedure against any organisation failing to fulfil the obligation to co-operate. Another potential sanction is the suspension of support or other benefits pursuant to the law.

Election candidates or nominating organisations that do not comply with the regulation on state contribution or violate the provisions pertaining to maximum campaign expenditure must repay twice the amount involved in the infringement to the state.

The parties must prepare annual reports in compliance with the Party Act and disclose the reports in the National Gazette by 30 April each year. In terms of bookkeeping and reporting, the party foundations are bound by the Accounting Act; the annual reports of party foundations are disclosed in the National Gazette. Statutory compliance of the financial management of the parties and party foundations receiving state support are checked by the SAO every two years. One year after the elections, the SAO also checks the utilisation of support and funds allocated for the campaign. The SAO also monitors whether or not the nominees and nominating organisations comply with the regulations pertaining to the capping of campaign expenditure. The SAO checks the use of state support and other funds defined in the Party Act within one year from the elections in relation to nominees and the nominating organisations.

## **3.2 Data and analyses on corruption**

### ***3.2.1. Difficulties of measurement***

It is difficult to assess how widespread corruption really is because although the traditional methods of criminal statistics provide important information, they are unable to give a full picture of this phenomenon. It is partly because the legal definition of corruption and what people generally perceive as corruption differs, which means that the corruption crimes defined in the Criminal Code does not fully cover all acts that are deemed as corruption by citizens. Furthermore, due to the very different duration of criminal proceedings, criminal statistics on effective court judgments reflect not just the corruption situation of the present but also of the past since it may contain judgements made in crimes that were committed many years ago.

A peculiarity of corruption crimes, namely that the trust between perpetrators is very strong and that they all have an interest in concealing their crime, is another factor that makes the detection of the cases and also research more difficult. In general, there is no specific victim of corruption crimes and the advantage resulting from it (money, favour) is often not exchanged at the time when the crime is committed.

The legislator focuses on the wider detection of corruption crimes and the social demand for zero tolerance in its prosecution within the framework of the elaboration of the amendments to the Criminal Code, which is currently in progress. Accordingly, in future the failure to make a report would be punishable not only in case of bribery or accepting bribery, but also in relation to all corruption crimes.

### ***3.2.2. Types of corruption crimes and their detection***

The list of corruption crimes is provided in Chapter XXVII of the Criminal Code and it includes the following crimes:

- active bribery
- passive bribery
- active bribery of a public official
- passive bribery of a public official

- active bribery in court or in official proceedings
- passive bribery in court or in official proceedings
- active trading in influence
- passive trading in influence
- failure to report a corruption crime

As the Criminal Code entered into force, the defining corruption crimes were simplified because, compared to the provisions of Act IV of 1978 on the Criminal Code<sup>3</sup>, the facts of the crime are now clearly separated. In the public opinion, however, crimes (such as misappropriation of funds, defalcation, abuse of authority) that are not listed as corruption related crimes in the Criminal Code are also perceived as corrupt acts.

Without a detailed dogmatic analysis of the different corruption crimes latency is the highest in corruption crimes, primarily because such crimes are of “*meeting*” like, i.e., typically on one side there is an active party (the party offering a briber or advantage) and on the other side there is a passive party,(the party accepting the briber or advantage). Since both parties commit a crime and both parties benefit from it, it is not in their interest to report it. Moreover, even if a criminal procedure was to be initiated, both parties would deny the crime because of the reasons mentioned above.

In the case of corruption crimes, the undue benefit is offered or requested verbally between the two parties, and therefore securing evidence is almost impossible even if one party, either the active or passive one, reports it. Evidence can only be collected if the meeting where the undue advantage is solicited or offered is recorded or if the party who reported the crime is willing to co-operate with the authorities.

The establishment of the NPS and the integrity check introduced as a new instrument by the amendment of the Police Act of 2010 made the fight against corruption more effective both in terms of prevention and collecting proof.

New dedicated units specialising in the detection of corruption were set up during the organisational restructuring of the National Police Headquarters (ORFK). On a regional level,

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<sup>3</sup>Corruption crimes according to Act IV of 1978 on the Criminal Code:

**Corruption in office:** passive and active briber in offices; active bribery in office, facilitated through the negligence of the manager of an economic organisation (member of employee having the right to control or supervise the organisation); unlawful trading of office influence, purchase of influence, active bribery in office in international relations, active bribery in office in international relations, facilitated through the negligence of the manager of an economic association (member or employee having the right to control or supervise the organisation); passive bribery in office in international relations; unlawful dealing with influence in international relations.

**Economic corruption:** passive economic bribery; passive economic crime committed by an employee (member) of a budgetary agency (business association, social organisation) having the right to take measures; active economic bribery; unlawful trading of economic influence; active economic bribery in international relations

**Judicial corruption:** bribery (active and passive) relating to justice (or any other regulatory service)

**Failure to report bribery:** failure to report bribery; failure to report bribery in international relations

**Corruption-type crimes:** abuse of personal data; crime against the order of election, referendum and popular initiative; bribery in an office; complicity; crime against justice committed in front of an international court; obtaining unlawful economic advantage; bankruptcy as a crime; agreement restricting competition in a public procurement or concession procedure; fraud in lending; failure to comply with economic data supply obligations; insider trading; violation of economic secret; money laundering; failure to comply with the reporting obligation related to money laundering; violation of financial interests of the European Communities; fraudulent management; usurpation; violation of technical measures protecting copyright or other copyright related rights; abuse of services.

economic crime units are dedicated to the detection of corruption crimes within the Police. The ORFK approved a strategic document in January 2010 which provides for the recording of the change in the number of corruption crimes and the newly emerged related phenomena, criminal conducts and methods every six months.

The following tables summarise the number of corruption crimes registered between 2009 and 2014, and the number of crimes registered between this period where the prosecution filed an indictment.

<b>Number of registered corruption crimes</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Bribery of public officials	590	320	309	307	642	98
Economic corruption	366	157	418	518	394	2,898
Judicial corruption	7	4	11	2	5	4
Failure to report bribery	1		2			
Corruption related crimes	1,730	1,314	11,043	585	884	394
Corruption crimes (Act c of 2012, chapter xxvii)					64	262
Corruption related crimes (Act c of 2012)					11	223
	<b>2,694</b>	<b>1,795</b>	<b>11,783<sup>4</sup></b>	<b>1,412</b>	<b>2,000</b>	<b>3,879</b>

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<sup>4</sup> The high number is due to the fact that in 2011 9,976 breaches of trade secrecy were registered at the Police Headquarters of Debrecen within the framework of one single case.

<b>Registered corruption and corruption related crimes according to the Criminal Code (Act C of 2012) - by offence</b>		<b>2013</b>	<b>2014</b>
Corruption crimes (Act C of 2012, Chapter XXVII)	Bribery		99
		1	49
	Active bribery of a public official	20	49
	Passive bribery of a public official	41	27
	Active bribery in court or in official proceedings		9
	Passive bribery in court or in official proceedings		2
	Active trading in influence		3
	Passive trading in influence	2	21
	Passive trading in influence		3
	<b>Total</b>	<b>64</b>	<b>262</b>
Certain corruption related crimes (Act C of 2012)	Breach of trade secrecy		1
	Abuse of public function	9	156
	Misappropriation of funds	2	56
	Abuse of authority (any person) Section 441		10
	<b>Total</b>	<b>11</b>	<b>223</b>
<b>Total</b>	<b>75</b>	<b>485</b>	

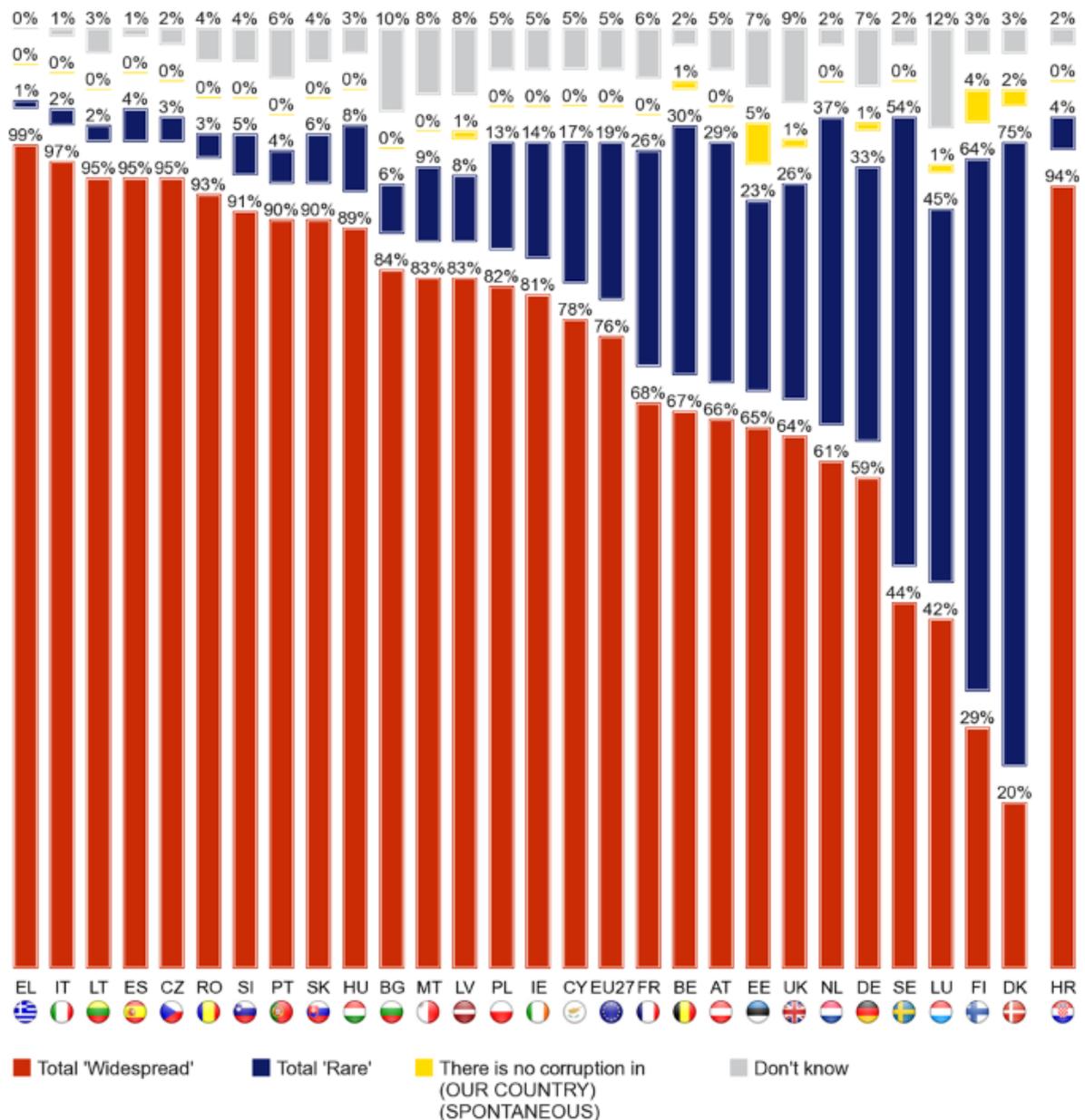
<b>Number of investigations closed with an indictment</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Bribery of a public official	587	294	287	245	578	69
Economic corruption	369	149	416	510	455	1,567
Judicial corruption	5	3	11	1	4	4
Failure to report a corruption crime						
Corruption related crimes	1,638	1,052	10,787	473	749	348
Corruption crimes (Act C of 2012, Chapter XXVII)					63	348
Corruption related crimes (Act C of 2012)					10	180
	<b>2,599</b>	<b>1,498</b>	<b>11,501</b>	<b>1,229</b>	<b>1,859</b>	<b>2,516</b>

### 3.2.3. Surveys and indices

According to the Eurobarometer corruption survey of the European Union, published in 2014, the problem of corruption is significantly widespread in Hungary according to 89% of the respondents. This figure is slightly lower than the 2009 and 2011 Eurobarometer figures (96% and 97%), yet is significantly higher than the European average (76%), indicating the sensitivity of the Hungarian respondents towards the subject.

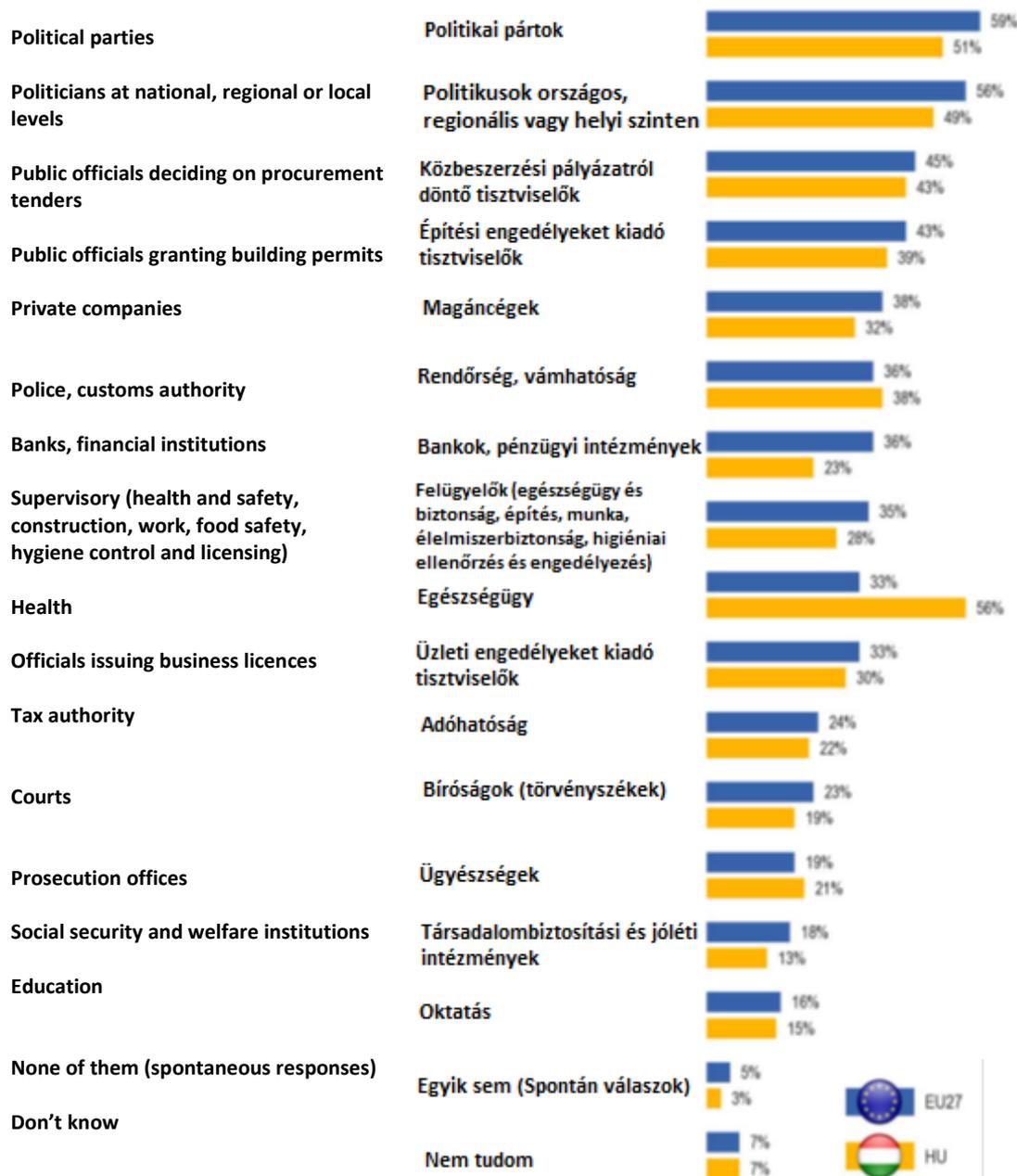
The survey also indicates that although Hungarian respondents consider corruption a significant problem, they are still less affected by it on a personal level in their everyday lives (19%) than the European average (26%).

QB5. How widespread do you think the problem of corruption is in (OUR COUNTRY)?



Are the offer or acceptance of bribery or abuse of power for personal advantages widely used in (COUNTRY) in your opinion in the following fields:

(ORSZÁG NEVE)-on megítélése szerint vesztegetés adása, elfogadása vagy a hatalommal való visszaélés személyes előny érdekében elterjedtek az alábbi területeken?



It can also be concluded from the Eurobarometer survey that the percentage of respondents reporting that payment was requested or expected from them for the public services listed in the survey questionnaire is higher (13%) than the European average (4%). The second table shows that the perception of Hungarian respondents on how widespread bribery and abuse of authority is, in certain sectors, corresponds to the EU average, although in some cases it is significantly or slightly lower than the EU average. In the health sector, however, the difference is rather large (23%). The survey also concluded that the greatest improvement in

the public perception of the extent of corruption at domestic public institutions and EU institutions, compared to the 2011 survey, has been in Hungary<sup>5</sup>.

According to the 2014 Corruption Perception Index (CPI) of Transparency International<sup>6</sup>, Hungary is 47<sup>th</sup> in the global ranking and is a country with average corruption in a regional comparison. The data on Hungary shows a more favourable picture than the data on the Czech Republic, Slovakia, Croatia, Romania, Serbia and the Ukraine, yet Hungary is slightly lower on the list than Austria, Slovenia and Poland. In an EU comparison, Hungary is at the bottom of the second third of the 28 Member States.

The Integrity Survey of the State Audit Office conducted annually since 2011 also provides important information about the corruption and integrity risks faced by the Hungarian state agencies. The data of the survey conducted in 2014 with the voluntary participation of more than 1,500 state agencies show that the development of an integrity based organisational structure is in an initial phase in Hungary. However, it is a positive sign that more and more public institutions commit themselves to the culture of integrity, which is also reflected in the increasing number of state agencies participating in the survey.

#### ***3.2.4. Findings and recommendations of international organisations***

By joining the international anti-corruption treaties and accepting their binding effect, Hungary undertook<sup>7</sup> to transform its national legal system to comply with the requirements of the treaties. Compliance with that commitment is monitored by the international organisations responsible for promoting and monitoring the implementation of the conventions (i.e. GRECO, OECD, UNODC).

In relation to the implementation of the Criminal Law Convention on Corruption and its Additional Protocol, the Council of Europe's Group of States against Corruption (hereinafter referred to as GRECO) concluded that the Hungarian Criminal Code which entered into force in 2013 generally complies with the requirements of the Convention and the Additional Protocol.<sup>8</sup> Apart from criminalization, GRECO also examined the transparency of party financing in the course of its third evaluation round. Regarding party and campaign funding, the evaluation report found that the Hungarian regulation complies with several *Recommendations of the Council of Europe on common rules against corruption in the funding of political parties and electoral campaigns*. GRECO also made recommendations for Hungary in this respect.

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<sup>5</sup> Eurobarometer Survey 2013 p. 119

<sup>6</sup> <http://www.transparency.org/cpi2014/results>

<sup>7</sup> Act XXXVII of 2000 on the promulgation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed in Paris on 21 November 1997 by the Member States of the Organisation for Economic Co-operation and Development (OECD) and Argentine, Brazil, Bulgaria, Chile and Slovakia; Act XLIX of 2002 on the promulgation of the Criminal Law Convention on Corruption signed by the Member States of the Council of Europe in Strasbourg on 27 January 1999; Act L of 2004 on the Civil Law Convention on Corruption signed by the Member States of the Council of Europe in Strasbourg on 4 November 1999; Act CXXXIV of 2005 on the promulgation of the Convention against Corruption of the United Nations Organisation, signed in Merida on 10 December 2003; Act CXV of 2005 on the promulgation of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union signed on 26 May 1997; Act LXVIII of 2014 on the promulgation of the Additional Protocol to the Criminal Law Convention on Corruption signed by the Member States of the Council of Europe in Strasbourg on 15 May 2003.

<sup>8</sup> [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2012\)3\\_Hungary\\_hu.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2012)3_Hungary_hu.pdf)

The Implementation Review Group (IRG) adopted the evaluation report on the implementation of Chapter III Criminalisation and Law Enforcement and Chapter IV International Cooperation of the UN Convention against Corruption in 2013. In relation to Chapter IV on International Co-operation, the report highlighted it as a good practice that the law on mutual criminal legal assistance enables an extensive cooperation.<sup>9</sup>

The 2012 report evaluating the implementation of the Convention of the Organisation for Economic Co-operation and Development (OECD) on combating bribery of foreign public officials in international business transactions welcomed the establishment of a specialized anti-corruption unit within the Central Investigation Office of the Public Prosecution Office, the increased effort made by Hungary to grant mutual legal assistance, and that the Criminal Code criminalizes the failure to report bribery (Article 297).

The *Going for Growth* report issued by the OECD in 2015 states that Hungary has completed a significant public administration reform over the last 10 years. The OECD made a proposal in the report for future measures, such as the promotion of the flow of information between government agencies and the integration of databases. The report also observes concerning the public administration that there is a need for enhancing transparency and competition in public procurement.<sup>10</sup>

The EU Anti-Corruption Report published by the European Commission in 2014 states that Hungary applies an integrity and prevention oriented approach at its public administration sector<sup>11</sup>. The 2014 Competitiveness Report of the European Union<sup>12</sup> reports on the new measures introduced in the public administration in 2013 to promote transparency.

In summary, it can be concluded that international organisations recognise the governmental efforts and achievement of the last few years in preventing and fighting corruption, yet, naturally, they propose further measures in certain areas.

### **3.3 Major international anti-corruption and integrity trends**

Most countries considered corruption as a criminal law problem until the 1970s and, in some cases, even stressed corruption's positive impact on economic development. This situation changed when an act on corrupt practices abroad (Foreign Corrupt Practices Act – FCPA) was adopted in the US following corporate scandals, which made the bribery of foreign officials punishable. Due to the consistent application of the FCPA, the US companies had a competitive disadvantage. Since weakening the regulations was not a feasible option, the US's objective became to extend the obligation to criminalize foreign bribery internationally.

The economic, political and social restructuring of the 1990s and the expansion of free market competition provided a good background for these endeavours, which later led to the approval of the first international conventions against corruption.

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<http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1387249e.pdf> p. 9-11

<sup>10</sup> <http://www.oecd.org/economy/growth/going-for-growth-hungary-2015.pdf> p. 205

<sup>11</sup> [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014\\_acr\\_hungary\\_chapter\\_hu.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_hungary_chapter_hu.pdf) p. 2

<sup>12</sup> <http://ec.europa.eu/DocsRoom/documents/6733> p. 7

The transformation at the beginning of the 1990s also changed the attitude towards the fight against corruption. This new approach to corruption was influenced by several other factors and trends, namely:

- The humanitarian crises showed that corruption is a threat to security and equal opportunities; reduces national assets and tax revenues; and threatens democratic governance. The concept of good governance developed by the UN lists key principles (e.g., transparency, rule of law, participation, efficiency and effectiveness) that should be followed by Governments.
- One of the main reasons of the failure of the *new public management* approach (which recommended the use private sector management methods in the public administration to increase its efficiency) started in the United Kingdom was the manifestation of corruption risks potentially inherent in the cooperation between the private and the public sector.
- The integrity framework elaborated by the OECD in the second half of the 1990s pointed out that corruption is only one of the risks and potential threats to the integrity of an organisation. Consequently, introducing anti-corruption measures on organisational level has a major importance as organizations can be prepared to mitigate operational risks with management tools aimed at strengthening its integrity.
- The civil society movements promoting the mobilisation of society also became active in the 1990s.
- The wave of bankruptcies at the beginning of the new millennium had a major impact on the corporate sector and led to the adoption of more rigorous regulations (Sarbanes-Oxley Act, hereinafter SOX Act) and brought value based and responsible corporate governance to the fore.
- The global economic crisis that broke out in 2008 called attention to the role of the state in a Neo-Weberian kind of approach, and highlighted not only its capacity of action, but also the responsibility of the executive power (*good government*, in Hungary: Good State concept).
- Researches of international reputation (Fukuyama, Acemoglu-Robinson) pointed out the outstanding role of institutions in this field. Transparency, accountability, inclusiveness, and partnerships are important cornerstones in the new Open Government Partnership initiative launched in 2011.

## 4 GENERAL OBJECTIVES

### SWOT analysis

on the implementation of the governmental tasks related to the prevention of corruption

	<b>Assist in achieving the objectives</b>	<b>Impede the achieving of the objectives</b>
<b>Internal factors</b> (organisation)	<b>Strengths</b> <ul style="list-style-type: none"> <li>• Openness of the organisational culture towards corruption prevention and integrity</li> <li>• Establishment of a new unit within the NPS, human resources are available</li> <li>• Progress made in the intervention areas of the Programme</li> <li>• Integrity at organisational level, the existence of an integrity advisor network</li> <li>• Availability of EU funds</li> </ul>	<b>Weaknesses</b> <ul style="list-style-type: none"> <li>• Limited domestic human and financial resources</li> <li>• Different quality of implementation of the measures relating to integrity</li> <li>• The commitment of the management at certain public administration agencies remains formal</li> <li>• Authoritarian management style at some public administration agencies</li> <li>• There are limited short-term advantages to the transformation of the organisational structure</li> </ul>
<b>External factors</b> (environment)	<b>Opportunities</b> <ul style="list-style-type: none"> <li>• Growing external and internal pressure for effective actions against corruption</li> <li>• Better balanced relationship with civil society organisations and experts</li> <li>• Co-ordinated cooperation within the public administration in the implementation of the tasks</li> <li>• More effective performance of tasks with the involvement of external expertise</li> <li>• The positive feedback on the achieved results increases the public trust and the commitment of the public towards the implementation of the Programme</li> </ul>	<b>Threats</b> <ul style="list-style-type: none"> <li>• Dissatisfaction with the government among citizens increases, public trust required for the implementation of the Programme decreases</li> <li>• The existing professional-political conflicts increase</li> <li>• The problem of corruption is linked to other topics (status of democracy, relationship with civil society organisations, etc.) and becomes a political weapon</li> <li>• Hungary's international reputation deteriorates and our position in international rankings weakens due to the lack of strong government actions</li> <li>• Deteriorating investment environment, decreasing competitiveness</li> </ul>

Modern anti-corruption mechanisms place great importance on the analysis of internal organisational operation, the identification of risks; the strengthening of value-based operation; awareness raising; prevention techniques involving the reduction of opportunities for corruption, and the introduction of effective control systems. The content and objectives of the Programme follow the same logic.

Anti-corruption is a complex issue, partly because it relates to areas and regulations independent from each other, and separately addressing these areas and regulations cannot be expected to lead to any major improvement, but also because it involves a variety of actors, i.e., it does not only involves public administration but also the corporate sector and the whole society.

Following a detailed analysis of the current situation and the identification of the problems, the various sub-chapters of the Programme define ambitious, yet realistic general objectives for the period of 2015-2018, by taking into account links to other policy areas. The measures of the Programme were defined in light of the experience gained during the implementation of the Corruption Prevention Programme of the Public Administration, the significance of the problems identified, and reasonable feasibility.

It is of paramount importance that the citizens' attitude towards corruption change. This can only be achieved by long-term and consistent programmes and providing positive feedback. In terms of reducing corruption, it is an important progress, yet is still inefficient, when an increasing part of the population passively rejects corruption. A more complex change of public attitude is required, and the modernisation of how the public sector sees corruption is also indispensable.

On the one hand, the fight against corruption means the strengthening of internal and external controls that consequently reduce the opportunities of occurrences of corrupt acts and aid the detection of such acts. The strengthening of controls involves amending the regulatory framework; measures on strengthening transparency; and, as a result, accountability; as well as related research activities and developments.

On the other hand, the fight against corruption consists of measures that enable the detection and proving of already committed corrupt acts. Such measures typically relate to data transfer, the modernisation and computerization of the supplied data; but they also go beyond technological implementation and suggest a need for reconsidering the management of certain tasks. In areas that are exposed to increased corruption threats, a high level of compliance with the law and other minimum anti-corruption requirements is not enough. Without any unnecessary impediment to the performance of the main activity of the organization, such regulations and tools need to be developed and applied that provide sufficient information and ample room for corruption prevention.

The greatest challenge to the Programme is putting the corruption prevention system into practice in order to ensure that the currently existing but isolated or inefficient anti-corruption initiatives form a coherent system. In this respect, a stronger and deeper cooperation between public administrative agencies and other autonomous state agencies bearing a special responsibility in the fight against corruption; and clearly defined powers and competences related to new tasks arising from the implementation of the Programme are especially important.

The Programme provides solutions and orientation for solving problems and achieving the objectives set; and lays down the foundation for the measures contained in the related government resolution.

#### **4.1 Increasing the resistance of organisations**

##### ***4.1.1. Strengthening external and internal control systems***

Corruption risks arise from the foundation and the operation of the organizations, and also from the inadequacy of organisational-level controls, which represents a separate group of corruption risks. In this respect two aspects should be analysed: a) are institutionalised controls exist at the organisations and b) if they exist, do they actually function and do they serve their purpose?

Pursuant to Act CXCV of 2011 on Public Finances, the purpose of public finance controls is to ensure regular, economical, effective and efficient management of public funds and national assets.

The internal control systems of state organizations, including internal audit, provide the framework for the internal control of public finances. The internal control system is a system of processes introduced in order to manage risks and to obtain objective evidence. Its aim is to achieve regular, economical, effective and efficient activities in everyday operation and financial management, guarantee the performance of clearing obligations, and protect public resources against losses, damages and misuse during both the process of performing the organization's function and duties and its financial management.

The heads of the state organizations and agencies are responsible - in line with the methodological guidelines published by the minister responsible for public finances - for the establishment, operation and development of the internal control system. It is thus their responsibility to establish, operate and develop an adequate control environment, risk management system, control activities, information and communication system, and monitoring system at each level of the organisation.

An internal control system is an inseparable tool of organisational governance containing all rules, procedures, practical methods and organisational structures that assist the management in achieving their goals and in preventing, identifying and correcting the events impeding the achievement of such goals. That is how the system can assist the organisation in pursuing its activities in a regular and effective manner. It ensures the enforcement of the policy of the management, the protection of assets and the completeness and accuracy of the records by providing accurate and timely information to the management.

The control system is definitely not a static system carved in stone, because it must dynamically follow the changes in the objectives and tasks of the state agency. It has to be ensured that the addition of a new needed control is suitable for monitoring the new task/activity and does not make the system over-regulated, or slows down or makes processes extremely costly without a good reason.

The audit experiences of SAO indicate that a special measuring system needs to be developed for the public institutions engaged in audit, in which special attention is paid to the review of the corruption and integrity risks occurring in audit and which can function as a system

identifying and evaluating the controls bearing also in mind the specificities of the area. In that regard, public sector organisations engaged in audit should be obliged to elaborate and implement in practice a methodology of controls related to integrity, to apply procedural rules for the audit functions and to include methodology guarantees and control points that exclude the occurrence of corruption risks when exercising their regulatory powers. The involvement of SAO is absolutely indispensable in the elaboration of the methodology.

The strengthening of the external control system also includes an assessment of to what extent the agencies entitled to conclude criminal liability relating to corruption are prepared for the more effective and efficient detection of complex corruption crimes. Over the last few years, people's interest in and sensitivity to corruption crimes and their perpetrators has increased.

Transparent absorption of EU funds, licensing and approval procedures (e.g. financial commitments), access to information (e.g. regulation on IT security archives) and access to assets (e.g. mobile phones, rules of using vehicles, management of cash and valuables, resource management and warehousing) are areas where special attention must be paid to the identification of corruption and integrity risks. Due to the volume of EU funds and in order to make their absorption transparent, fraud can be eliminated more effectively (fraud embezzlement, etc.) by using the experience gained so far. This direction of making progress is in line with the objectives of the Partnership Agreement concluded between the Hungarian Government and the European Commission for the period of 2014-2020.

In Hungary, the management of personnel risks (certificate of no criminal record, national security vetting) has a long history. In order to further develop the risk management system, an analysis must be conducted, with the involvement of the Ministry of Interior's Directorate of Public Service Personnel Development and the National University of Public Services, to identify in which types of jobs the various risks are different from the organizational average in order to use the available financial and human resources for risk management in a more concentrated fashion. This job-based risk assessment is especially important in complex and large organisations (e.g., county government offices). Moreover, once the assessment is completed, further measures may be linked to it (training, job rotation, selection, asset declaration). Connecting the risks related to the individuals, jobs and procedures suggests further opportunities for making progress in mitigating or excluding individual, job and procedural risks. The assessment of job related risks at an organisational level fits well in the process of establishing a life-long career systems in the public service and, in the longer term, at least part of the risk analysis can be made automatic by using IT devices.

#### ***4.1.2. Organisational integrity***

Measures aiming at preventing corruption create a close link between the requirements related to countering corruption and the value based operation of organizations. Dutch experts analysed the anti-corruption policies of several countries and concluded that there were different development degrees in terms of the method of intervention irrespective whether or not anti-corruption measures are aimed at organisation or state level.

According to the Dutch experts, the establishment of integrity systems that aims at transposing expressed principles and values into practice, as well as preventing and sanctioning abuses is the most effective solution. A co-ordinated, state or organisation level integrity policy is a prerequisite of such a system.

The SAO assumed a pioneer role in the dissemination and implementation of the integrity approach, and undertook the fourth Integrity Survey of state agencies in 2014 for the fourth time.

The Integrity Survey covers the entire Hungarian public sector and is aimed at assessing the corruption risks at these organizations as well as their protection against these risks<sup>13</sup>.

Corruption risk refers to the actual or assumed opportunities at a particular institution during its operation with other individuals or organisations that may provide unlawful advantages to the co-operating party causing damage to the particular institution or, in a wider interpretation, the public sector (damages include financial damages or any damage reflected in the quality of services or loss of trust).

Within this general interpretive framework, it can be determined, based on the legal status and tasks of the given organization, when exactly and in relation to what activities (e.g., exercising public powers or distribution of public assets) corruption may occur. These are called the *inherent risks*. There are also operation related factors (e.g., transformation of the organization or receiving external financial support) which increase corruption risks irrespective of the type of the organization. These are factors are called *factors increasing corruption risks*. These factors may be managed by establishing and operating *risk mitigating controls*.

Based on this theoretical framework, the SAO survey consisting of 155 questions is aimed at identifying inherent risk factors, factors increasing corruption risks and controls mitigating corruption risks.

Based on the data of the survey, the SAO concluded that, with the increase in the level of controls, corruption risks simultaneously decreased slightly, i.e., the gap between risks and controls narrowed, and the improving trend can already be felt in the course of application of “soft” integrity controls<sup>14</sup>. It is an objective to increase the number of agencies involved in the survey since it would increase the efficiency of the analyses.

In terms of fight against corruption, the activities and instruments of SAO focus on prevention, as their objective is prevention and not sanctioning.

The purpose of SAO’s integrity project was to adapt and further develop the Dutch method originally developed to strengthen the organisational integrity of certain institutions and to extend it to the whole Hungarian public sector as a useful national model, in which the corruption and integrity risks at public sector institutions and the protection against these risks can be identified.

Following 2011 and 2012, during the 2014 survey in total 1,584 organisations, more than ever before, completed and returned the electronic questionnaire of SAO. Participation in the survey is directly useful for the participating organization since the designated IT system defines their corruption risk and control indices. By preparing analyses for certain groups of

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<sup>13</sup> The SAO adopted the internationally recognised Dutch method assessing the integrity of public sector institutions within the framework of an EU project, in the course of which the SAO made the Dutch method suitable for extension to the whole public sector, as a unique initiative even at EU level.

<sup>14</sup> <http://www.asz.hu/sajtokozlemenye/2014-12-11/az-allami-szamvevoszek-szerepe-es-tevekenysege-a-korrupcio-elleni-kuzdelemben>

organizations, the SAO also provides methodological assistance to institutions to strengthen their own respective integrity.

The SAO agreed to continue the annual surveys (until 2017) even after the closing of the project financed by the EU in 2012 and to develop a survey, tailored for state owned enterprises to identify and assess the corruption risks at enterprises with majority state ownership and thus promote the application of the principle of responsible management of public funds.

Strengthening of integrity means protection against corruption for the institutions of the public sector. If prevention, thinking in risks, identification and application of tools enhancing the resisting capability are considered important in the whole public sector, the objective is to make sure that a larger number of public sector organizations participate in the SAO's Integrity Surveys. In order to understand the integrity-based approach of enterprises with majority state ownership and the control processes used by them, to strengthen their commitment and to monitor the development trends free of any distortion, a pilot survey should be conducted to be followed by regular surveys covering at least three years.

Pursuant to Government Decree 50/2013 (II. 25), integrity means *“operation of an organisation in compliance with the applicable rules, the objectives, values and principles defined by the head of the official organisation and the body governing it.”*

Although the law defines integrity in relation to an organisation, it may be interpreted at individual and public administration levels. A person have integrity when he/she acts in accordance with the rules and the principles she/he holds. The integrity of an individual and organisation are closely related to each other, they either strengthen or weaken each other. That is, if an individual cannot accept the set of values or expectations of an organisation, the organisation cannot work effectively either.

Regarding the strengthening of organisational integrity, it needs to be stressed that it cannot merely be deemed a component of countering corruption: the implementation of measures aimed at strengthening integrity is also an element of good governance and effective public services.

As the first step towards increasing the level of integrity and fighting corruption, the Government adopted a government decree on the legal instrument of “integrity advisors” and made it compulsory for every public administration agency operating with a staff exciding 50 people to appoint an advisor. The main responsibilities of integrity advisors are receiving and investigating reports on any abuse or irregularity relating to the operation of the organisation as well as reports on corruption risks, informing the managers and staff about ethical conduct and give advice to them in questions concerning professional ethics.

The experiences gained since the implementation of the integrity management system indicate that agencies falling within the scope of the relevant government degree, that is public administration agencies supervised or controlled by the Government with the exception of police organisations and the Military National Security Service, perform their tasks relating to the integrity management system with different intensity and commitment. Certain organisations have adopted this new attitude and made significant progress in a short time, while for others even ensuring full legal compliance requires further actions.

On the basis of the above, one of the greatest challenges of the forthcoming period is to make the application of the law on integrity management consistent and to increase the commitment of managers and employees. Delimitating the rules on professional ethics and other cases violating organisational integrity, clarifying the related labour law sanctions and procedures and ensuring a more consistent implementation of the rules on interacting with third parties repressing private interests could help meeting this challenge.

With the help of the integrity-based organisational mechanisms, the operational risks can be better identified since risk factors are revealed and therefore they can be managed fast and deliberately in their initial phase. Ultimately, all this will contribute to strengthening public trust in operation.

Having a qualification of integrity advisor is a prerequisite of appointing integrity advisers, as defined by the relevant in the government decree. Such qualification can be obtained by completing a two-semester course at the National University of Public Service.

In future, the integrity advisor program must be continuous and focus on two directions. On the one hand, the advisors must gain the theoretical and practical knowledge required for the performance of their tasks and, on the other hand, they will have to share their practical experiences with each other and with their colleagues, forming an integrated advisory network.

The NPS shall take part in this process by offering guidance, while the Centre for Excellence in Integrity of the National University of Public Service shall contribute to it with educational and methodology assistance.

The training programs of the National University of Public Service focusing on corruption prevention, professional ethics and integrity are indispensable in strengthening the culture of integrity within public administration agencies. It is important to involve expert who are qualified as integrity advisors in organisational training activities more widely. It is also important to continuously develop the existing curriculum and to ensure that it can be adapted to different specific needs of organizations.

The knowledge accumulated by the Ethics Committees of the Hungarian Government Officials Corps should also be integrated into the training programs. The members of the committees are experts who, obtain experience about corruption in the public service through ethical proceedings in numerous forms and in numerous ways.

#### ***4.1.3. Corruption prevention in the administration of justice***

The independence of the judiciary and its transparent operation free of any external influence is one of the cornerstones of the rule of law. In order to ensure the lawfulness of the judicial system, states have introduced multi-layer judiciary systems and guaranteed a right to legal remedy. The operation of the judicial system has been further sophisticated over the last few decades to become more resistant towards any external attempt to exert influence. Apart from structural guarantees, the training and further training of the employees of the judiciary improved in quality and judgments are adopted in panels as a general practice, especially at the higher levels of the judiciary.

In Hungary, the judiciary system operates with strong (internal) controls and, as a result of the changes in the selection of judges, the system of appointment and promotion has also become more transparent. However, the cases that surfaced indicate that the judiciary is not free of abuse either. One instrument for the elimination of any abuse would be the continuous review

and development of the operation of the internal control system and the strengthening of internal audit as part of the internal control system. Within the framework of the control environment, that is part of the internal control system, audit trail presenting the operational processes of specific areas must be put in place and regularly updated. The audit trail presents the levels of responsibilities and information, the management and control processes and identifies the procedure to be applied when irregularities are detected. Apart from a duly established control environment, the operation of the risk management system in compliance with the applicable laws and regulations is equally important. To make risk management effective, it is absolutely necessary to understand and integrate common experiences of the respective managers and employees.

In addition, it may also bring significant changes in attitude if the employees of agencies proceeding in the various phases of criminal proceedings (investigation agencies, prosecution, courts) take part in the shared training programs where they can learn more about the deeper links between corrupt acts through studying specific cases.

Apart from the above, the development of methods that could make the rendering of judgments and the management of courts more transparent, observing or course the data protection and security aspects, could also contribute a great deal to the achievement of the objectives set in the Programme.

In relation to the judicial activities of the courts, the National Office for the Judiciary (hereinafter referred to be by the Hungarian abbreviation as OBH) should be requested to assess the intervention areas where the risk of violating integrity prevails the most. These areas could include, e.g., the performance of tasks relating to the assignment of expert witnesses or attorneys-at-law or elimination of cases when the judges acts as a single judge and no ordinary legal remedy is available against their decision (such as single-level proceedings in public administrative lawsuits).

The OBH should also be requested to assess the public perception on operation of the judicial service annually by using surveys. The identification of further areas could be made easier with the review of the questions used in the confidence indices that assess the operation of the judicial service. By supplementing the questions and based on the outcome of the survey, it could be identified which procedures are deemed the most problematic by the people.

Building on the experiences of the enforcement procedures to date, the measure jointly executed by the OBH and the Chamber of Bailiffs of the Hungarian Courts, supervised by the Minister of Justice, that electronically assigns the enforcement procedure forms and clauses in the framework of a joint project is aimed at preserving the integrity of court administrators and reducing corruption risks. With this solution, the enforcement procedure form issued by the courts with an attached clause are electronically assigned to the competent bailiffs without any corruption risk, in exact compliance.

#### ***4.1.4. Relationship between the public service and other jobs***

The Government defined the development goals for the major employment groups of the public sector (public administration, police and home defence) in Government Resolution No. 1846/2014 (XII. 30). According to the new life-long career model for the public service, the shift to job-based system transforms the promotion and remuneration systems. As a result, the qualification, education and competence requirements of each job will become the most significant factors, which will strengthen the commitment, ethical and moral conduct of employees, increase their need for training and development of skills, and make more transparent as well as more stringent the their obligations (relating to conflict of interests, disciplinary procedures, ethics, asset declarations). The new life-long career in public service

programme also includes a considerable increase of remuneration, and thus strengthens the stability of the legal status of public administration, police and home defence employees from a remuneration policy approach.

In order to further strengthen protection of public administrative agencies against corruption, it is very important to set it as requirement, as a general requirement relating to qualification, to complete a training program at the National University of Public Service that prepares candidates for serving the public and guarantees the acquisition of the required competencies for new employees joining the public service.

In terms of the impartiality and independency of public administration, it is very important to avoid even the appearance that any public service employee proceeds for private interests. Consequently, the regulation on the conflict of interest is necessarily part of the fight against corruption. An annex of the EU Anti-Corruption Report on Hungary identified as a problem the lack of accountability and sanctions relating to the conflict of interest in the relevant legislation.<sup>15</sup>

Having reviewed the Hungarian legislation, it can be concluded that Act XLIII of 1996 *on the Service Status of the Professional Members of Armed Forces* (hereinafter referred to as Professional Services Act), Act CCV of 2012 *on the legal status of soldiers*, the CSPS Act and Act XXXIII of 1992 *on the legal status of public employees* all contain rules on conflict of interest. These acts public service employees to perform other work besides the public service, yet sets strict rules for it.

These acts contain identical provisions laying down the rules to be applied in the case of any conflict of interest:

- the respective individual must report any reason constituting a conflict of interest,
- the individual exercising the employer's rights must immediately order the party concerned to eliminate the conflict of interest,
- if the party concerned fails to do that, the public service status shall be terminated.

However, none of the legal regulations provide for the monitoring and control of the conflict of interest; they build on the principle of voluntary reports, i.e., if the party concerned does not report the conflict of interest, the employer will not learn about it.

This shortcoming of the conflict of interest control system could be corrected by including the declarations on conflict of interest (both the fact of submitting one and its content) in the records of public organizations. With the help of easily accessible electronic records, data of the declarations of officials working in the same types of jobs could be compared and any inadequacy or unusual pattern could be identified.

In addition, the possibility of extending the conflict of interest mechanism to individuals employed through contract (i.e. employees who do not qualify as public servants) should also be considered. In that regard, it should be noted that the prevention and elimination of any conflict of interest is one of the basic principles in the EU funds and its administration system. In general, the EU legislation does not make any distinction between the status of a contractual employee or public servant. In the case of employees employed in EU funded projects, the conflict of interest needs to be assessed in light of the activities they performed

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<sup>15</sup> [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014\\_acr\\_hungary\\_chapter\\_hu.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_hungary_chapter_hu.pdf) p. 15

and functions they fulfil not based on their legal status. Such examinations are conducted during the opening of tenders, pre-screening and evaluation of the tenders.

In the case of the Round IV evaluation of the Group of States against Corruption (GRECO) currently in progress, Hungary was evaluated mainly in relation to the mechanisms promoting the prevention of any conflict of interest. It also shows that in international practices also strive to come up with procedural mechanisms that facilitate the monitoring of conflict of interests between the two final stages, i.e. notifications and the termination of employment.

#### **4.2 Public procurement**

On the basis of the country reports, the EU Anti-Corruption Report concluded that due to inadequate control mechanisms and weak risk management, public procurements are especially exposed to corruption in the Member States.<sup>16</sup> The country reports point out that public procurement is one of the areas most exposed to corruption, as also indicated in a large number of corruption cases in one or several countries. The inadequacies of prevention and reduction of corruption in public procurement have detrimental impact on the financial interests of the European Union and the Member States. As the corruption risk is rather high in public procurement procedures, the anti-corruption and anti-fraud guarantees in public procurement is a priority both for EU Member States and EU institutions.

The EU Commission has pointed out that the public procurement guidelines have largely achieved their objectives and resulted in a higher degree of transparency and competition. However, the procedures need to be further simplified and the anti-fraud and anti-corruption guarantees need to be strengthened. The excessive complexity of the process and the existence of weak control mechanisms weaken the transparency of public procurement.<sup>17</sup> The Commission has promoted the elaboration of new public procurement guidelines (partly to achieve these objectives). The European Parliament and Council approved 2004/24/EU Directive on public procurement, repealing the 2004/18/EC Directive, and the 2004/25/EU Directive on the procurements of contracting authorities operating in the sectors of water, energy, transport and postal services, repealing 2004/17/EC Directive. The deadline for the transposition of the Directives by the Member States is 18 April 2016 and 18 October 2018.

The EU Anti-Corruption Report on Hungary states that a new Public Procurement Act entered into force in January 2012 (Act CVIII of 2011 on public procurements, hereinafter Public Procurement Act) in order to improve transparency and simplify public procurement procedures. The Public Procurement Act was modified again in June 2013. After those modifications, the public procurement documents to be published can be managed more consistently, they are available for search and are also accessible by the public through the public procurement database operated by the public procurement authority. The public procurement authority publishes the public procurement notices and other public procurement documents (e.g., contracts) on its website; nevertheless, documents may be uploaded into the database the disclosure of which is not mandatory. At the same time, the Commission report highlights that the disclosure regulations did not provide for an effective sanctioning mechanism in case this obligation is violated.<sup>18</sup>

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<sup>16</sup> [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr\\_2014\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf) p. 7

<sup>17</sup> i. m. p. 22

<sup>18</sup> i. m. p. 9

Hungary's Partnership Agreement for the 2014-2020 development period and the *EU thematic objective 11: Enhancing institutional capacity and an efficient public administration* highlighted the objectives, the need for further efforts to prevent corruption and reform the public procurement system. The increase in the number of e-government services and interoperability between the databases and e-solutions as well as increased transparency in public procurement through the extension of electronisation and the reform of processes were defined as the results expected from the development projects supporting the thematic objective and financed by the EU.

In November 2014, the Government accepted a concept for the development of public procurement procedures, which will be the basis of the new Public Procurement Act that is currently being drafted. The new regulation will define easier implementation and more flexibility of the proceedings as an objective and will also simultaneously intend to develop certain control mechanisms.

In Hungary there is a public procurement control system, which is rather complex even in a European comparison. Not only the Public Procurement Act, but numerous other legal regulations, including Government Decree 46/2011 (III. 25) Korm., Government Decree 4/2011 (I. 28) Korm. and Government Decree 272/2014 (XI. 5) Korm. also contain provisions for the supervision and control of public procurement documents and procedures.

In case the provisions of the Public Procurement Act and other legal regulations on public procurement are violated, according to Article 137 (1) of the Public Procurement Act, a legal remedy procedure may be conducted in front of the Public Procurement Tribunal, as a result of which a fine can be imposed. The ex officio procedures of the Tribunal may be initiated by more than ten various agencies whose responsibilities also include the control and supervision of public procurement pursuant to Article 140 (1) of the Public Procurement Act if they detect any law infringing conduct or other negligence during the performance of their tasks. The standardisation of the legal practices of the Public Procurement Tribunal could also enhance legal security.

It should be stressed that control is one of the most important prevention options in any anti-corruption activity. Naturally, the regularity and thoroughness of controls must be in proportion with the actual risks and in terms of professional aspects the control mechanisms cannot slow down or make impossible the procedures.

This is why the participants involved in public procurement procedures should be trained on the violation of law on public procurement and their risks as well as sanctions both at central and local levels (parties involved at the contracting authorities) in order to ensure that infringements do not occur due to lack of knowledge and understanding of the regulations. A further objective is to provide regular training for individuals involved in the controls to improve their professional skills and knowledge, focusing on their legal and practical as well as technical knowledge in public procurement. With the help of the techniques used in fraud and understanding of potentially involved actors, they will be able to easily recognise signs indicating any fraud in public procurement while performing their procedures.

Attention must also be paid to the regular development of public procurement knowledge of experts operating in judicial services and crime investigation in order to ensure that they understand the legal and practical issues in their proceedings and be able to apply measures within their scope and competence accordingly.

In public procurement extended electronisation and better use of electronic procurement will not only significantly reduce the burden of administration, it will make the procedure faster and more transparent, making controls easier and reducing corruption risks. They expect to lead to reformed public procurements, greater efficiency and cost reduction. With the development of IT tools and applications, the absorption of public funds can be monitored more easily.

Consequently, in the course of development of electronisation of public procurement procedures, the emphasis on anti-corruption factors is extremely important as it makes it much easier to use the applied control mechanisms, reduces the resource requirements and will facilitate the identification of correlations that cannot be identified in the currently used control systems (e.g, corruption by tenderers, bid rigging and false tenders).

Enhanced co-operation among the controlling authorities, the Public Procurement Authority, the prosecution and any other authority prosecuting crimes and acting against corruption could also be useful.

The application of the open contracting approach may represent further progress in public procurement procedures in certain cases. Within the framework of an open contract, techniques and methods are introduced in the management of public contracts that enhance publicity, improve accessibility and, indirectly, transparent state operation. An open contract is also useful assistance for public agencies performing anti-corruption tasks to fulfil their functions effectively.

The individual elements of the standard developed with international co-operation on the basis of the Open Contracting Data Standard (OCDS) can be adopted individually too. The open contract approach may be enforced primarily in public procurement procedures and the related IT developments but, in certain cases, it goes beyond them and defines recommendations also for the management of the entire contract portfolio of the public sector.

The OECD recommendations go beyond the EU standards and the minimum requirements laid down in the effective Hungarian legislation and their implementation requires legal amendments and IT development.

In public procurement, the open contract initiatives is supported by the World Bank<sup>19</sup>, the Open Government Co-operation<sup>20</sup>, and also by Transparency International Hungary<sup>21</sup>. Slovakia has already adopted the measure and Great Britain also decided to implement it in a national action plan prepared within the framework of the 2013-2015 Open Government Partnership.

### **4.3. Transparency**

#### ***4.3.1. State agencies and state owned companies***

In state agencies, the agency's management has the primary responsibility for ensuring the conditions for transparent operation.

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<sup>19</sup> <http://wbi.worldbank.org/wbi/stories/open-contracting-growing-global-movement>

<sup>20</sup> <http://www.ogphub.org/blog/open-contracting-partnership-develops-global-principles>

<sup>21</sup> [http://transparency.hu/uploads/docs/ep\\_korrupcio\\_elleni-szandeknyilaktozat\\_kisero.pdf](http://transparency.hu/uploads/docs/ep_korrupcio_elleni-szandeknyilaktozat_kisero.pdf)

Article 39 of the Fundamental Law states that support or contractual payments from the central budget may only be granted to organisations of which the ownership structure, the organisation and the activity related to the use of the support is transparent.

Every organisation managing public funds shall be obliged to publicly account for its management of public funds.

The general rules on the obligation to disclose certain data of public interest and data public on grounds of public interest managed by bodies performing public tasks are set out in Act CXXII of 2011 *on the Right of Informational Self-Determination and on Freedom of Information* (hereinafter: Information Act). According to the Information Act, bodies performing public tasks shall publish the data on their web sites included in the general disclosure list specified in the Act.

As regards state owned business companies, Article 2 of Act CXXII of 2009 *on the more efficient functioning of publicly owned companies* (hereinafter: Act) determines the scope of data to be published by them according to the procedure specified in the Information Act.

The *general consequences* of failure to meet disclosure obligations are set out in the Information Act: based on Article 52(1), any person shall have the right to notify the National Authority for Data Protection and Freedom of Information (hereinafter: Authority) and request an investigation alleging an infringement concerning the exercise of the rights of access to public information or information of public interest, or if there is imminent danger of such infringement.

Subject to the findings of its investigation, legislation in force grants the Authority mostly ‘soft’ legal instruments available for ensuring freedom of information and enforcing compliance by bodies obliged to publish data of public interest. These instruments allow the Authority to instruct the data controller to remedy an infringement associated with the exercising of rights to access data of public interest and data public on grounds of public interest (or eliminating the imminent threat of such an infringement), and to make a recommendation to the body supervising a controller that has such as supervisory body. In addition, they enable the Authority to inform the public about the outcome of its investigation in a public report, or - if the controller fails to abide by the instruction - to apply to a court for binding the controller to act in the manner required under the instruction.

As regards state owned companies, based on Article 2 (8) of the Act, “in case of failure of disclosure or if disclosure is incomplete or not timely, it is possible to propose proceedings by the body entitled to supervise the publicly owned company in question.”

Article 220 of the Criminal Code stipulates that the “misuse of public information” is a crime to be sanctioned.

The OECD Guidelines on Corporate Governance of State-owned Enterprises highlights the following main measures: introduction of a compliance programme, high standards of transparency and disclosure, strict external audit and internal audit rules, clear and strict responsibilities, annual “target indicators”, and performance evaluation<sup>22</sup>. The question of

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<sup>22</sup> <http://www.oecd.org/corporate/ca/corporategovernanceofstate-ownedenterprises/34803211.pdf> p. 12

whether these OECD Guidelines can be transposed should be examined in order to enhance the transparency of state owned companies.

Having scrutinised the websites of state owned enterprises, Transparency International's 2014 research report titled "Hungarian state-owned enterprises: their transparency, integrity and compliance with disclosure requirements" found that a significant portion of Hungarian state-owned enterprises failed to comply with the disclosure obligations set out in law, and a mere 8% of the state enterprises examined had a compliance system and dedicated compliance unit.<sup>23</sup>

Based on the above, the review of the scope of data to be disclosed, promotion of the fulfilment of disclosure obligations and the requirement of introducing a compliance system by setting minimum requirements - having regard to data of particular public interest for the purpose of transparent operation - are important objectives. In addition to modernising the scope of data and documents to be disclosed on the website on a mandatory basis, the detailed rules of electronic disclosure of data of public interest and the legal provisions determining the disclosure templates required for disclosing data in the publication lists need to be reviewed in order to enhance the transparency of publicly owned companies. Updating these rules is absolutely necessary to ensure the expected compliance with disclosure obligations.

The first step in carrying out this measure may be to draft a regulation concept by involving publicly owned companies and private companies that already successfully operate compliance systems. The regulation should be supplemented with practical 'guidance' (guidelines and information materials supporting implementation) and training.

Promotion of compliance with disclosure obligations and the introduction of compliance systems will strengthen internal integrity of companies and the culture of ethical organisation in addition to more transparent operation.

#### ***4.3.2. Transparency of civil organisations***

According to Act CLXXV of 2011 on the Right of association, the Public Benefit Status and the Operation and Support of Civil Organisations (hereinafter: Civil Act), civil societies, associations registered in Hungary - except for political parties, trade unions and mutual insurance societies - and foundations - except for public foundations and foundations of political parties - may be deemed to be civil organisations.

In addition, all initiatives in which citizens take part to demonstrate or protect their interests and values on a voluntary basis, and which operate independently from the state, may be considered civil organisations. Therefore, civil organisations are civil associations, voluntary organisations of citizens, the actions of which respond to social problems and community needs, which play an active role in resolving these issues. The state and the economy cannot operate efficiently without an active role assumed by society in the framework of organisations. Article VIII (2) of the Fundamental Law declares everybody has the right to establish and join organisations.

The detailed rules of this right - embedded in the Fundamental Law - are set out in Volume III of Act V of 2013 on the Civil Code (hereinafter: Civil Code). The Civil Code's rule on collective decision-making, according to which members or shareholders shall exercise the

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<sup>23</sup> [http://transparency.hu/uploads/docs/SOE\\_riport\\_HU.pdf](http://transparency.hu/uploads/docs/SOE_riport_HU.pdf) p. 27

decision-making powers vested with them based on the Civil Code or the deed of establishment by way of a body composed of all members or elected members or a body composed of all persons exercising founder's rights represents such a guarantee-type rule. Requirements on supervision by owners also facilitate the entity's operation. In the deed of establishment, members or founders may provide for setting up a supervisory board consisting of three members, for the task of supervising the management in order to protect the entity's interests. In addition, compliance supervision over the lawful operation of legal entities by courts also contributes to ensuring the transparent operation and management of legal entities.

The requirements for transparent management and operation of civil organisations set out in the Civil Act rely on the Civil Code's rules and ensure the framework for transparent operation by supplementing those rules. In this regard, court records that are the token of public operation, the collection, sorting and disclosure of public data or information public on grounds of public interest associated with civil organisations and in this context, an accessible website operated to provide data on request are important to note. The regulation of public funds granted to civil organisations in the Civil Act, intended to promote the coordinated and transparent provision of subsidies, should also be mentioned.

The regulations presented above offer an appropriate framework for the lawful and transparent management and operation of non-government organisations. In spite of this, a part of civil organisations may be found to show significant defects in various fields of management, ranging from violation of law to the lack of transparency which, though not regulated by law, may be reasonably expected. In many cases, organisations may be demonstrated not to manage their affairs lawfully, with certain persons using the organisation's financial and material resources unlawfully and without authorisation. In many cases, the operation of these organisations is not transparent even for their own members and officers, let alone external persons.

The state and its citizens have a fundamental need for being able to determine whether the use of subsidies received, the rate of costs on upkeep and the remunerations collected by the managers and staff of an organisation is lawful and transparent. On the other hand, procedures for exposing illegal practices and determining criminal liability are typically ad hoc and slow.

Another phenomenon, much less detectable than financial infringements, but also existing (and spreading both in Hungary and internationally) is the practice of making use of civil organisations' ability to exert pressure in order to secure some advantage or benefit. In this practice, certain civil organisations use the issue or goals having positive context that they represent to put pressure on market operators, and to exert support in exchange for refraining from taking action against the company in question. An example for this may be the affair of the Audi investment in Győr, where an environment protection organisation made the withdrawal of an appeal it submitted to a court contesting the resolution that approved the project dependent on financial compensation. Although the three-year imprisonment and ban from public life imposed on the head of this environment protection organisation is not final and enforceable yet, this case is a good illustration of how this practice works.

It is important that civil organisations - by virtue of the power of publicity - may be capable of influencing administrative decisions, which is basically a positive and desirable ability, but which may also be abused.

The detrimental practice, also hard to evidence, according to which an organisation supports one of entities engaged practically in the same activity but contests all the others, solely subject to the support disbursed to that organisation, also forms a part of this issue.

Organisations working for an important social goal basically in a lawful matter, around which suspicion of corruption arises or which pursued questionable activities incompatible with their goals give a bad name to the entire civil sector.

The detrimental effect of these cases, which come in the limelight and often form the basis of criminal proceedings, casts a shadow on all organisations working in the same field as the particular organisation and may therefore undermine trust in civil organisations in general.

Based on the above, it may be necessary to assess the applicable legislative environment to see what means are available to more efficiently counter unlawful operation of civil organisations and to make their operation transparent - to follow good practices - and to ensure their activities are appropriate in both trade and ethical terms.

In this regard, reference should be made to Chapter IX of the Civil Act, which contains regulations to ensure transparency of budget subsidies. According to these rules, the officer of a civil organisation receiving significant subsidies authorised to represent that organisation shall make a declaration of his/her assets in the cases stipulated by law. An organisation is deemed to receive significant subsidies if it receives more than HUF 50 million of subsidies - according to Article 19(1)c) of the Civil Act - from the central subsystem of public finances (aggregated subsidy) for any one budget year based on data held in the professional monitoring system.

The assets declaration shall contain the officer's participations and assets existing on the date of making out the declaration and income earned from any legal relationship within the five calendar years preceding the date of making the declaration.

The fact and time of making the assets declaration shall be disclosed on the Civil Information Portal linked to the organisation in connection with which the obligation to make the declaration arose, within fifteen days of the date when the assets declaration is received.

Persons who make an assets declaration containing true and fair data are deemed to have discharged their obligation to make an assets declaration. The minister in charge of safeguarding assets declarations may conduct proceedings to verify if such data are true and fair. In addition, the minister in charge of safeguarding assets declarations also verifies compliance with the obligation to make assets declarations. If a person obliged to make an assets declaration fails to do so when due and the failure is not justified by a particularly equitable reason, the Treasury will suspend disbursements of the subsidies to the organisation that was the basis for the minister's instruction given to the officer authorised to represent that organisation to make an assets declaration, based on information from the minister. The person responsible for safeguarding assets declarations may conduct an audit if a report on the declarant's asset position offers good reason to assume that the increment in the declarant's assets cannot be confirmed by income earned in his/her appointment that was the basis of the obligation to make an assets declaration or by income earned other lawful source known to the person responsible for safeguarding assets declarations.

The review of the effective legal provisions presented above, to be aimed at determining the broadest possible scope of executive officers of civil organisations to be bound to make assets declarations, will promote the objective of transparent operation.

#### **4.4. Issues concerning assets declarations of civil servants**

Increase in assets that cannot be verified by lawful earnings is a characteristic of acts of corruption. The government has put in place controlling mechanisms, including an obligation to make assets declarations, to check the enrichment of persons working in public administration.

In case of any suspicious increase in assets, the person authorised to safeguard assets declarations may propose a wealth gain investigation to the tax authority. The regulations effective in Hungary give HTCA the most efficient tools for determining whether the wealth gain originates from verifiable sources. If the investigation finds that the assets declaration is untrue in this respect, HTCA has the appropriate means and resources for confiscation of illegal and/or untaxed assets.

Act CLII of 2007 on the obligation to make assets declarations (hereinafter: Assets Declaration Act) covers a wide range of people working in public administration. According to Article 2 a) of the Act, persons *in public service*:

1. members of law enforcement agencies and professional members of the Hungarian Tax and Customs Authority,
2. professional and contracted Soldiers in the Hungarian Military,
3. persons in public employment,
4. persons in civil service employment or government service,
5. persons in prosecution service,
6. judiciary employees, and
7. employees of the Central Bank of Hungary except for members of the Central Bank of Hungary's Monetary Council are subject to the Act.

In addition, professional government officers are subject to the Assets Declaration Act.<sup>24</sup>

According to Article 11 of the Assets Declaration Act, assets declarations shall be completed in two copies as set out in the appendix to the Act, each page shall be signed by the declarant, and each copy shall be put in a separate sealed envelope. Assets declarations may also be completed electronically.

The scope of data to be provided should be reviewed to keep up with progress, as legislation in force fails to address or ambiguously addresses certain forms of savings, for instance (such as details of investment units, value of stocks). In comparison with other countries, the scope of data to be declared in order to inform about income, financial, participations and asset situations is particularly broad in Hungary, whereas the credibility and reliability of data on the assets declared should be enhanced in the future. Therefore, the review of data scopes is

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<sup>24</sup> According to Act XLIII of 2010 on central state administration bodies and the status of government members and secretaries of state, assets declarations of political leaders with no mandate as Member of Parliament [i.e. the prime minister, ministers and secretaries of state according to Article 6(1) and (2) of the Act] are subject to different rules. The reason for enacting different rules is that political leaders of the state are governed by rules with the same contents and nature as those applicable to assets declarations of Members of Parliament, to be disclosed to the public. This pattern of regulation, applicable to Members of Parliament, should apply to these public offices in the future as well.

aimed at modernising the contents of assets declarations and the scope of data - in order to avoid unnecessary data provision burdens -, rather than broadening the scope of data.

In addition, a legal environment containing sanctions under labour law associated with auditing assets statements should be created for persons in public service. The Assets Declaration Act allows for determining that labour law sanctions are associated only with the end of the assets declaration proceedings: i.e. if the person concerned fails to make a declaration or the declaration made contains untrue statements, the employment or assignment will be terminated.

Therefore, in order to ensure that obligations associated with assets declarations are taken seriously, the possibility of imposing some labour law sanctions (such as withholding a part of remuneration) on the person concerned during the wealth gain investigation should be considered.

#### **4.5. Development of statutory proceedings**

Citizens and businesses most frequently get into contact with administrative bodies pursuant to administrative procedures, and evaluate the activities of such bodies through these procedures. On the other hand, this is exactly the field with the greatest chance of citizens and officers offering or demanding unlawful benefits. Though currently not on a massive scale, if propagating, these transactions can significantly undermine public trust in the operation of administrative bodies while carrying substantial secondary risks (e.g. buildings may collapse, food poisoning may occur).

An important trait of corruption is the relationship of interest that is based on direct contact between the officer and the client, the person providing public services and the person using public services. Consequently, the possibility of corruption can be reduced and, for certain types of cases, eliminated by interrupting direct relations and rendering them indirect.

In many instances, the public office powers of administrative bodies are coupled with broad discretionary powers, but these powers are not accompanied by an appropriate level of control.

A possibility for narrowing relations between clients and officers is to set up customer service offices that merely receive documents. People working here have no decision-making powers on the given type of case; they merely receive documents, filings, missing documents filed subsequently. Clients become aware of the identity of officers endowed with decision-making powers only at the end of the decision-making process, after the given resolution is issued.

The further development and enhanced standard of electronic administrative services will contribute to improving the transparency of public administration, increasing the trust citizens put in administrative bodies. In addition, openness and transparency are also retentive and therefore have a significant effect of preventing corruption.

All states apply complex measures to keep statutory proceedings objective and free of influence: granting the right to appeal, countersigning, the divisions between roles and responsibilities may be considered to be a kind of 'anti-corruption quality assurance'. On the other hand, technological progress enables additional measures that result in reducing the opportunities and the number of instances of abuse. Opportunities inherent in automating decisions and developing IT tools should be put to better use in statutory proceedings where the authority has no discretionary powers. An example for this may be a decision adopted for irregularities subject to administrative fines, for which the fine amount is determined by a separate government decree, or, as regards IT solutions, making the issuance of certificates of

no previous criminal records automatic, or putting written driver tests on an electronic platform.

In order to increase the security of statutory proceedings, the scope of information and services available online should be broadened, including the possibilities to receive, trace and retrieve documents electronically. In the course of developing solutions to simplify and reduce administrative burdens related to administrative proceedings, solutions focusing on preventing corruption and, in a broader sense, on reducing abuse, should be built into the process. Comparative analyses of the statistical data from identical proceedings conducted by different bodies seem to be particularly promising in this regard. The investigation and analysis - i.e. data mining - of data available on administrative proceedings allow for easily pinpointing patterns in departure from the average (such as unreasonable boosts or declines in the number of permits at a particular office; extremely fast or slow administration) and exploring them with targeted investigations. These methods are based on the assumption that each procedure and case type has its particular features, most easily explored by using IT tools to analyse a high number of samples. All departures from the average imply irregularities, which may allow for assuming violations of law even.

The use of IT tools enables support for convenience services associated with administrative proceedings, which enhance the standard of service provided by and deepen public trust in the operation of administrative bodies. Short text messages sent by land registry offices in case of modifications to the data held in the land register represent one of these convenience services, while constituting an important means of preventing and exposing abuse. Information or electronic copies of decisions sent to mobile phones or e-mail inboxes may shape awareness in the relationship between clients and offices in the future.

The conscious mapping and management of weak points in administrative decision-making may have a positive impact on risks infringing integrity. In doing so, efforts should be made to ensure that case allocation should preferably be automatic (e.g. with the help of a dedicated programme or customer calling systems) while the number of roles with discretionary powers are reduced. Where discretionary powers are absolutely reasonable to maintain, the criteria to be considered (such as number and age of children, asset or income position, list of special life situations) should be published in advance. The independence of administrative work is most affected by attempts to exert influence by managers (by phone, verbally), particularly if the request may lead to violating provisions of law or internal orders. These situations - with regard to the vulnerability of the staff - are particularly difficult to handle, so they should be prevented by training, preparing and, if necessary, sanctioning managers in addition to documenting cases (e.g. indication of discussions on the case documentation, notice to integrity advisor).

Reducing the integrity risks of administrative procedures calls for becoming familiar with risky jobs and risky procedures and procedural stages. In addition, the efficiency and effectiveness of internal control systems should be enhanced by making them more targeted as a result of embedding the risk analysis results. Furthermore, procedures that make individual types of abuse easy to identify and discover should be elaborated, and this knowledge should be distributed in further training.

Consequently, training to be provided to staff and managers should cover courses on the trade as well as on ethics, and they should be enabled to have a personal attachment for the office, assuming responsibility for their own activities as well as activities of co-workers.

The relationship of interest that is based on direct contact between the officer and the client, the person providing public services and the person using public services, described as an important trait of corruption, can be observed particularly well at lower regional levels of administration. Districts and district (metropolitan district) offices were set up as organisational units of the metropolitan and county government offices as of 1 January 2013. The most important duty of district (metropolitan district) offices is to perform administrative tasks at the level below county level, based on which a number of administrative affairs that used to be in the executive's jurisdiction was transferred to the district (metropolitan district) offices. Any mutual contact entailed by local administration between the officer and the client in itself poses corruption risks, aggravated by the absence of opposing parties in certain types of cases, meaning that supervisory control fails to take place if no appeal is made.

Requiring that a body of second instance for statutory administrative affairs within the executive's jurisdiction review cases not appealed in which there are no opposing parties on an annual basis may be a solution for exercising control. Investigations to be conducted according to legal rules applicable to statutory administrative proceedings would not affect the formal enforceability of decisions, whereas a review of these cases may provide grounds for conducting other - criminal or other - proceedings.

#### **4.6. Regulation to promote a clean business environment**

Corruption is present in both the public and private sector, and we can also conclude that risks are more substantial where the public and private sectors interact directly (e.g. in public procurements, licensing procedures, VAT accounting, determining rules of operation, controls). The duty of the state is to create predictable and market-friendly operating conditions for the private sector, while actively working to restrict and sanction attempts to exert influence, regardless whether it originates from public or private operators, that could distort market competition.

In Hungary, the business environment - including business culture and the regulatory environment - is rather lenient concerning abuses committed by companies. In order to protect the reputation of the company or to avoid official investigations when a case surfaces, the typical solution is to try to sweep the matter under the carpet by removing the persons involved, and the potential court procedures may take years. However, this lenient approach causes substantial financial and social damage in the medium and long term.

The increasingly strict regulation of multinational companies in their parent company's country (FCPA, SOX Act, UK Bribery Act) threaten with substantial sanctions those who commit bribery or fraud to acquire business, and the implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is growing increasingly consistent internationally. In order to identify and manage risks, compliance units have been set up worldwide, and the culture of integrity, which integrates the principles of ethics, the corporate goals, the tools used and the method of implementation, is being disseminated. In order to promote compliance, attention should be paid to the information posted on the Hungarian Competition Authority's dedicated website<sup>25</sup>, as well as the messages of the press campaign and the findings of the conference organised by that Authority in 2014.

Weak internal corporate controls augment corporate risks, as external controls will never be able to continuously and comprehensively analyse the operation of all legal entities. As a

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<sup>25</sup> <http://www.megfeleles.hu>

result, external controls can never mean full-scale protection against the irregular operation of entities, and they are very costly to maintain and operate. Based on this financial and social necessity, strengthening and supporting the internal control systems of legal entities in order to prevent abuse from taking place or, once done, to be detectable sooner, are more rewarding. The serious consequences of the recent brokerage firm scandals were caused by the insufficiency of the internal controls. The internal control functions of these firms were practically inoperational or worked with an extremely low efficiency, so that they were unable to support the activities of the government bodies performing external control.

A good example for strengthening internal controls is the SOX Act adopted in the U.S. in 2002, which contains numerous provisions in order to reform corporate accounting and protect investors. The Act requires the strengthening of the independent operation of and the conflict of interest provisions for auditors, the increased general civil and criminal law liability of managers of companies listed on the stock market as well as the managers responsibility for the appropriateness of the quarterly financial reports. In addition, the Act prescribes strict penalties (imprisonment up to 10 to 20 years, fines of several million dollars) against those who falsify corporate balance sheets or persecute whistleblowers. The favourable effects of the SOX Act may serve as a positive example for the Hungarian regulation as well. Solutions that may be adapted include the extension of reporting obligations of auditors to include crimes of particular importance as regards preserving public trust, the mandatory rotation of auditors, introducing stricter sanctions for the with failure to disclose reports, and restrictions on the remuneration (premium, bonus, options) of executive officers if the company's operation violates the law. All these measures may contribute to a cleaner business environment.

Out of economic operators active in Hungary, multinational corporations in foreign ownership align their activities to the Hungarian situation as well as to the legal and ethical requirements applicable to their parent companies. Setting a good example, many of the state-owned enterprises (MFB Zrt.; Eximbank Zrt.) set up their own compliance systems, whereas others, similarly to the vast majority of Hungarian small and medium-sized enterprises, have yet to recognise and therefore apply the principles of responsible corporate governance.

Since a transparent business environment favourably influences the competitiveness of a country and increases tax revenues, it is clear that the state has to support the efforts aimed at ensuring a clean business environment both in its capacity as regulator and in its capacity as owner. In its regulatory function, the state has to ensure that legal entities set up to commit crimes or working to evade the regulations may not secure a competitive advantage over their competitors acting in a fair manner. After entering into force, Act CIV of 2001 on measures applicable to legal entities under criminal law (hereinafter: Liability of Legal Persons Act) - having regard to the recommendations of the OECD Working Group on Bribery and the Moneyval - underwent a considerable conceptual amendment by the adoption of Act CCXXIII of 2012. The international recommendations taken into account found that although under the Hungarian criminal law legal entities could in theory be held accountable for a wide range of crimes (all wilful crimes), measures were rarely imposed on legal entities. The reason for this, according to the experts questioned during the course of the evaluation, is the difficulties in applying the law. The legislator widened the range of cases when measures could be taken against a legal entity. Thus, according to the rules in force as of 1 July 2013, it is possible to take measures against legal entities even if it is not possible to determine the liability of the natural person who committed the crime but a crime has clearly been committed.

It is reasonable to review regulations and make proposals to enhance their efficiency and effectiveness after enough time has passed to assess the impact of the amendments on

practical efficiency. It is important that in addition to fines, measures that are actually capable of influencing the operation of legal entities are applied to entities engaged in actual business activities. Authorities proceeding in connection with the different violations of law, in general, focus primarily on identifying personal liability and imposing sanctions for that. However, individual violations of law - particularly if it was facilitated by inappropriate internal controls - may also have effects on the corporate level manifested in organisational malfunctioning. Therefore, in order to restore the integrity of the corporate level operations, the possibilities for co-operation between the various authorities, corporate management and shareholders; and co-operation between the various authorities itself should be assessed. In this framework, the legal entity concerned could be induced to agree to restructure its operation in the long term in order to perform contractual provisions and to avoid fines by proposing a statutory contract.

In addition to direct financial risks, business entities with a non-transparent ownership structure and unknown actual carry significant collateral risks. In the case of companies with non-transparent ownership, the risk of abuse significantly increases while the accountability and the possibility of imposing sanctions on the entity decrease. Moreover, adequate protection for creditors is not ensured in the event of liquidation or bankruptcy. This is particularly true for business entities with a tax residence in a country other than an EU Member State.

It may be reasonable to introduce sanctions in addition to those currently applicable (such as exclusion from state subsidies).

The state's regulatory role is particularly important in creating a transparent business environment and preventing unfair competitive advantage, especially in areas highly infected with abuse. The Electronic Road Freight Transport Control System - some components of which have already been introduced and the rest of which will be gradually implemented in 2015 - screening abuse related to fictitious transport of goods by introducing the 'electronic consignment note' and weight checks for vehicles is a progressive and efficient initiatives. The introduction of controls, sanctions and guarantees reduces abuse and thereby reduces the competitive disadvantage of market operators acting fairly. The weight measuring network of this system should be extended, which will also contribute to road safety.

In addition to prevention and consistent sanctioning, it should be ensured that legal entities consider clear and ethical operation as an inevitable but rewarding investment. In order to attain this, the activities of fair businesses should be supported by positive incentives and the issuing of guidelines promoting compliance. Supporting and strengthening this process will, in the long term, lead to a significant change in the business environment, and the legal entities itself will become interested in disseminating clean business practices and co-operating with authorities. A change in attitude and the improvement of the efficiency of the application of law may be promoted by publishing methodological guidelines and information materials developed with the participation of chambers of commerce and the professional community concerned. In line with the OECD recommendation, guidelines should be produced with the involvement of chambers of commerce and industry for small and medium-sized enterprises on the applicability and benefits of internal controls, ethical and compliance regulations. The guidelines should take into account the particular needs and opportunities of SMEs.

Considering that drafting any regulation for private operators is a complex process, it is imperative that the entities concerned be involved and consulted in advance on the planned measures. This is the only way to ensure and enhance trust, which is of key importance for competitiveness and legal certainty. While failure to hold the necessary consultations may

adversely affect the outcome of the planned measures, a broad consultation yields higher-quality regulation while affording the time required to prepare for applying new legislations.

Regulations promoting a clear business environment affect a number of other areas as well. The regulations applicable, among others, to the Hungarian Competition Authority, the HTCA and the government offices should also be reviewed, and harmonised with transparency criteria and public procurement procedures.

## **4.7. Education and training**

### ***4.7.1. Public service***

The new public service career programme for the staff of public administration, law enforcement agencies and the military [Government Resolution no. 1846/2014. (XII. 30.)] completely restructures the system of promotion and of remuneration of these groups. The shift to the new promotion system results in reshaping the education, training and further training requirements of the staff concerned. The new system of job-based promotion sets the requirement of continuous training and the development of competence. Transforming corruption prevention, professional ethics and the awareness of obligations and expected conduct into skills should have a prominent role among training programs and requirements to be significantly augmented.

Developing a legal and institutional framework that allows for efficient corruption prevention in itself is unable to reach its goal if the staff of the public agencies concerned does not have up-to-date information on these frameworks or is unable to apply the approach and skills that could satisfy international requirements in practice as well. Therefore, it is absolutely necessary to disseminate information on the prevention of corruption as widely as possible in order to combat corruption. The training programs on corruption prevention may be considered to be the field of success of recent years; and the methodology of the training on ethics and integrity in the public service is available at the Center for Excellence in Integrity of the National University of Public Service.

As regards law enforcement, the Ministry of Interior's Directorate General for Public Service Human Resource Development coordinates and organises education, training, law enforcement training, further training and management trainings and related tasks associated with the law enforcement career programme. The Directorate General participates in the preparation of ministerial decisions related to higher education for law enforcement, coordinates and implements the tasks of regulation, administration and supervision of professional qualifications and specialist qualifications required for particular jobs that are within the competence of the Minister of Interior. The management training courses organised by the Directorate General cover the topics of corruption prevention and ethics.

Although the importance of combating corruption plays a vital role in law enforcement training and further training programs, new requirements and the experience gained from the corruption prevention training of public officials indicate that training for law enforcement officials should be reviewed and, if necessary, restructured and/or extended w. The primary source of information on corruption for law enforcement officials consists of the criminal law and forensics courses of the Faculty of Law Enforcement and the awareness raising lectures held by the NPS. In addition, the prevention of corruption should be given emphasis in the further training programs organised by the Ministry of Interior's Directorate General for Public Service Human Resource Development as well.

The directions for developing the further training programs on ethics and prevention of corruption are as follows. On the one hand, the curriculum and methodology of the training

programs need to be continuously updated according to the practical experience and international requirements and further training is needed to maintain the skills of the staff taking part in combating corruption. As regards international requirements, a recommendation made by the OECD to Hungary concerning the provision of information on the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the related Hungarian legislation to relevant government officials (especially commercial diplomats) should be noted since the implementation of the recommendation has been pending for several years. Having regard to additional recommendations made by the OECD concerning education and training, tax auditors should receive training on practices of detecting international bribery, while law enforcement officials should receive training on the role of legal persons in international bribery.<sup>26</sup>

Training programs should be developed based on the existing methodology and adjusted to the special needs of the different sectors of public service. In the future, the programs aimed at developing the competences and skills of the law enforcement staff should be extended to cover the staff of other public bodies not supervised by the Minister of Interior, particularly of Hungarian Tax and Financial Control Administration (HTCA).

Heads of government bodies are key players in disseminating an organisational culture that resists corruption, which is why the inclusion of related knowledge in the management training systems, with particular regard to the training of top managers and the topic of corruption risks within the organisation, will greatly contribute to the efficiency of this training. Dissemination of a value-based and ethical attitude, and the education of a generation of professionals having the appropriate approach are also imperative. This activity has already started in the domain of higher education in public administration, while extending the secondary and higher education system of the law enforcement to include professional ethics and prevention of corruption should be a task for the current planning period.

The further development of integrity management and professional ethics training are important because providing training courses that reach various levels and areas of public administration - instead of a training program focused on one area or just one topic - will help to gradually increase the number of officials having appropriate knowledge and skills concerning integrity in the operation of organisations, the ethical attitude, the proper management of ethical dilemmas, and their opportunities and obligations associated with combating corruption.

Provision of appropriate financial resources is a key issue concerning the sustainability of training. The absence of such funds may threaten the permanent high standard or even the delivery of training courses. In this regard, the efficiency of knowledge transfer may also be jeopardised by the low motivation of employers and employees, that is the employer and/or public service employees may consider attending the courses a necessary evil. This might be resolved by the proper preparation of training courses, making and keeping them mandatory, as well as by making and keeping them free of charge.

The courses are closely related to raising awareness as well: a well-organised, high-quality training course reaching out to a large number of public servants is one of the most important tools for disseminating an approach that emphasizes ethical behaviour.

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<sup>26</sup> <http://www.oecd.org/daf/anti-bribery/HungaryP3WrittenFollowUpReportEN.pdf> p. 4

#### ***4.7.2. Development of methodologies and scientific researches***

The forms taken by corruption vary hand in hand with socio-economical changes. This is why it is necessary to continuously research, measure and evaluate corruption by latency research, perception and survey type research, and channel the knowledge gained through these exercises into education and training, policy development and information dissemination in order to enhance the efficiency of combatting corruption.

The objective of the Center for Excellence in Integrity of the National University of Public Service is to development training programs and to become a research think tank. However, due to its limited capacities, the Center for Excellence in Integrity performs research activities only to a limited extent.

The capacities of the Center for Excellence in Integrity of the National University of Public Service could be strengthened to develop researches that could serve as the basis for efficient anti-corruption measures.

Researches laying the foundation of anti-corruption policy-making may include research on the efficient evaluation of corruption risks in the course of drafting legislation, while the fulfilment of international recommendations calls primarily for the development of various data bases. The possibility of improving social participation in drafting legislation and accessibility of documents should be looked in line with e-administration solutions.

In addition to meeting international requirements, participation in international anti-corruption projects and exchange of information also promotes the development of knowledge; the dissemination of Hungarian best practices; contributes to improving international opinion on Hungary; and the achievement of foreign policy objectives..

In the course of research, special attention should be paid (particularly regarding research carried out with international co-operation) to the difficulties in adapting international experience and best practices pursuant to the different legal and institutional frameworks.

#### ***4.7.3. Human resources management***

The new public service career program set the main directions of development in the fields of human resources management and the staff policy of the Government (public administration, law enforcement, military) human resources policy. During the implementation of the public service career program, , the actual career elements (selection, recruitment, application, qualification, remuneration) of the main career stages will be developed, while well-functioning HR instruments (job analysis/evaluation, ensuring labour supply, mentoring system) and tools supporting human resources planning (personnel monitoring, planning) will be developed to promote the efficient human resources policy in the public administration.

The professional qualifications of the staff and the organisational culture have a fundamental impact on the operation and the quality of work of public administration bodies. Naturally, managers, who play an outstanding role in managing the organisations, are responsible for making sure that people are recruited, selected and promoted primarily on the basis of their aptitude and professional skills.

Transparency of recruiting and selection is hindered by the limited capacity of the IT system capable of the automatic screening of a large number of applications as the first step of the recruitment procedure, leading to a situation where a restricted procedure is favoured over public vacancy announcements. The restricted procedure is also regulated by law. This practice hampers the selection of the best candidates and contributes to emergence of undesired criteria in the recruiting and selection processes. The European Commission's Anti-

Corruption Report 2014 Chapter on Hungary stresses that although steps have been taken to make the public sector more transparent, nepotism remains a significant problem.<sup>27</sup>

Therefore, a system supported by IT solutions should be established and further developed in the public administration, which would make the processes of recruiting, selection and records transparent and ensure adequate controls.

The establishment and further development of such a system and the adequate results it could achieve may be jeopardised by the lack of financial resources and by its inconsistent application within the public administration.

#### **4.8. Raising awareness**

Efficient action to combat corruption may be taken only if citizens and professionals change their way of thinking. This requires providing information on the nature of corruption, corruption risks and how to avoid corrupt situations; creating an organisational culture and attitude amongst citizens that resists corruption; and strengthening the public trust in a clean public sector.

##### ***4.8.1. Campaigns and surveys***

Corruption is a constantly present in nearly all forms of the Hungarian media, but cases of corruption are discussed almost exclusively in the context of criticising the efficiency of the steps taken to combat it. Information on the measures taken and possible ways to fight corruption are available for citizens only to a very limited extent. These factors lead to a negative public perception and a hostile approach towards public administration bodies.

Regarding the awareness raising, citizens should be informed of the measures taken and the accomplishments in preventing corruption in an objective, up-to-date and balanced manner. Providing objective and up-to-date information will contribute to the strengthening of public trust in the public administration, which will improve the perception of corruption. In addition, information programmes and campaigns addressing specific target groups should be organised on the possibilities and means of identifying and eliminating corruption risks. A targeted campaign will help to ensure that specific groups of public officials obtain appropriate information on the legal and institutional framework of corruption prevention and possible actions against corruptiob. Combining the information campaign with training programs will strengthen an ethical attitude and conduct amongst public servants and business operators as well. In addition, dedicated information campaigns will help to implement certain recommendations made by international organizations (such as the OECD).

A dedicated government website available in Hungarian and English is an important channel of continuous and campaign-like flow of information, and therefore its maintenance and development is a priority. In addition, the use of mass communication and marketing tools should also play a key role in raising awareness. When providing information for and raising the awareness of different professional groups, establishing personal contact and networking during dedicated workshops are essential in order to ensure credibility and professionalism..

Surveys provide a tool for measuring the efficiency of information campaigns, the outcome of which may lead to modifying the means and emphasis of awareness raising . On the other hand, a nationwide assessment of the attitude of officials working in the various segments of the public administration (such as law enforcement) towards corruption is also important.

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<sup>27</sup> [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014\\_acr\\_hungary\\_chapter\\_hu.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_hungary_chapter_hu.pdf) p. 14

The collection and use of best practices and our commitment to fulfilling the obligations undertaken by Hungary upon joining international treaties will contribute to the efficiency of awareness raising. The public is actively interested in matters concerning corruption, so any communication on the issue can be expected to be highly efficient. At the same time, the negative public opinion also indicates that reaching favourable results requires communication that is factual and addresses the target groups as equal partners.

#### ***4.8.2. Education and training in elementary and secondary schools***

The measures aimed at changing people's attitude towards corruption should also cover public education in order to ensure that all the information necessary for shaping citizens' attitude to reject corruption is available to the younger generation, and that the information is transformed into skills as early as possible. This process has already started since information on corruption and corruption prevention is already included in the National Curriculum as an element of the "ethics classes" for grades 9 to 12. The goal is to further develop the teaching of ethics in co-operation with the ministry in charge of public education. Also, the organizations of workshops at public schools on the issue of the problem of corruption in communities and the society should be included in the National Curriculum. On these workshops, , pupils in grades 9 to 12 could receive information on the problem of corruption and learn about the methods of combating corruption in a way that is adequate to their age, and with the help of professionals who are familiar with the age group concerned. When developing these training materials, it is important to involve professionals having the appropriate level of expertise and experience.

The primary threat to teaching anti-corruption in the framework of "ethics classes" is the lack of resources.

Raising awareness and providing information are horizontal measures as providing appropriate information to the people concerned by the measures of the Programme is a key for their efficiency. Awareness raising and providing information are, however, most closely related to education and training. It should also be noted that the failure to implement the individual measures will have a negative impact on providing information and raising awareness.

#### **4.9. Providing staff and equipment resources for combating corruption**

The Minister of Interior performs the government tasks relating to anti-corruption with the participation of the National Protective Service (NPS).

Changes in the competences related to corruption prevention allowed the retaliation and prevention aspects of the fight against corruption to be united in the framework of a single organisation. The new approach enables dialogue with citizens and state bodies aimed at supporting the shaping of attitude and organisational culture that recognises and rejects corruption. This dialogue also strengthens the relationship between public administration bodies and the law enforcement bodies fighting corruption.

The implementation of the tasks set out in this Programme requires close co-operation between state bodies, economic operators, civil organisations, researchers, experts working in corruption prevention, and citizens. On the other hand, the NPS should be involved in the coordination of the Programme's implementation, and a framework needs to be created to ensure co-operation between the stakeholders listed above. This will make the scheduling and monitoring of the implementation of the Programme easier. In addition to coordination tasks, the NPS plays an important role in the detection of corruption as well. Integrity testing is an

efficient tool for ensuring the unbiased, fair and impartial administration of cases. The integrity test is one of the procedures conducted by the NPS, and it is aimed at determining whether the official supervised performs its duty in line the rules and obligations defined in the law. For this purpose, the NPS creates situations that are likely or presumed to take place in real life when the official under supervision performs its duties.

The NPS started integrity testing in 2011 amongst officials subject to the Act on the Service of Professional Members of the Armed Forces (so-called Service Act). By the amendment to the Police Act, the NPS now has the competence to conduct integrity tests amongst certain government officials since the second half of 2013.

Criminal proceedings have commenced against a number of officials as a result of integrity tests. Experience shows that integrity testing has the potential to be dissuasive. The officials of the NPS often give information on the results of integrity testing at the staff meetings of the law enforcement and public administration agencies under the NPS's protection and video recordings of integrity tests that can already be disclosed to the public are also often showed at these meetings. Recordings of integrity tests are also shown during the training programs for law enforcement officials. Furthermore, based on the Decision of the Ministry of Interior No 2/2014 (I. 22.) on the duties of bodies supervised by the Minister of Interior to relating to the Prevention of Corruption, the NPS sends a copy of the final sentence issued by a court in a criminal procedure followed following an integrity test to the head of the relevant law enforcement of public administration body, who then has the right to inform his/her staff about the contents of the sentence (the head of the body shall observe the relevant rules on the protection of data).

The NPS protects, i.e. have the competence to carry out detection activities amongst, 130,000 law enforcement and government officials. This means that each person working at the NPS (including persons who perform administrative tasks and do not participate in detection; and also including persons performing other detection related tasks such as general crime detection or lifestyle monitoring) is responsible for the protection (i.e. carrying out integrity tests) of 283 officials.

This number shows that increasing the staff of the NPS will lead to reducing the number of protected persons per NPS official, which will help to increasing the number and efficiency of integrity tests.

Having a modern system to process reports and information received by the NPS and connecting the system processing qualified data to cryptographers would also strengthen the effectiveness of the fight against corruption. These developments would shorten the response time and optimise the use of human resources since the officials of the NPS the would directly receive the reports made by citizens via e-mail, and therefore, they would be able to read the report and contact the person who made the report without having to be present in the office (i.e. having remote access to e-mails) . The headquarter would also immediately receive the data - regardless where data was generated or recorded - allowing a response without delay.

A key prerequisite for preventing and fighting corruption is that the data assets accumulated in the course of the competent authorities' activities should be secured against a potential disaster or cyber-attack that could immobilise or crash the systems. Concentrated systems should be given increased protection, as the information is stored in one centralised system instead of being dispersed.

Act CXXV of 1995 on National Security Services (hereinafter: NSS Act) re-regulated the system of national security checks. The new regulation brought about a conceptual change

and created a dynamic screening system, which meant substantial additional tasks for national security services.

Article 74 i) of the NSS Act extended the scope of persons subject to national security screening, and Article 72/B introduced a review procedure in the framework of which the national security service may screen persons having a valid security clearance with “no risk” qualification in certain cases while the given person holds the office that serves as the basis for conducting national security screening. The new NSS also provides that if a review procedure is requested by a person entitled to propose the initiation of a review procedure, the director general of the national security service that has the competence to conduct the requested screening shall conduct the repeated national security screening without discretion. The director generals of the national security services also have the discretionary power to order the national security screening of a person (primarily based on reports from the organizations performing national security protection activities and the exchange of information with the NPS).

It is important to note that the new system of national security screening requires the development of a significantly larger system of operative relations in the protected institutions, as well as accountability of these contacts that takes better account of the criteria for review procedures in addition to employing such contacts for classical facility protection purposes. In parallel with this, the number and importance of coordination exercises with peer agencies will increase considerably in the context of persons subject to ongoing national security screening who work outside protected facilities.

Article 71/A(3) of the NSS Act introduces the obligation to report changes in relevant data, facts and circumstances included in the questionnaire filled in during the security screening. Processing and verifying the changes in data will also mean additional tasks in the future.

In this respect, it should be noted that as of 1 February 2015, the Commissioner for Fundamental Rights may launch investigations concerning the ordering and conducting of national security screening review procedures. According to Article 72/C(1) of the NSS Act, the person subject to a review procedure may request an investigation by the Commissioner for Fundamental Rights into the ordering and conducting of review procedures within six months of becoming aware of the review procedure, in order to assess any infringement of fundamental rights occurred. In addition, the Commissioner for Fundamental Rights may investigate the general practice of the national security services concerning review procedures, in order to assess if any infringement or irregularities concerning fundamental rights occurred.

Should the Commissioner for Fundamental Rights find any infringement or irregularity concerning fundamental rights in respect of ordering and conducting review procedures, he/she informs the minister supervising the given national security service and gives recommendations on the measures needed to be taken. If the infringement was committed by the person who requested the initiation of the review procedure (i.e. the review procedure was not ordered by a director of a national security service), the Commissioner calls the entity requesting the review procedure to take the necessary measures.

If the Commissioner for Fundamental Rights does not consider the measures taken by the minister supervising the given national security service adequate, he/she will inform the National Security Committee of the Parliament. These new powers of the Office of the Commissioner for Fundamental Rights (hereinafter: AJBH) ensure that the Constitution Protection Office (AH) carries out the review procedures in line with applicable legal provisions.

The introduction of investigative powers concerning the ordering and conducting of national security screening review procedures mentioned above also raises the need to strengthen the capacities of the AJBH.

Moreover, sound and image recording equipment used for gathering evidence needs to be procured in order to satisfy the technological development needs of police bodies carrying out special anti-corruption related tasks.

Given the special and often latent nature of corruption crimes, it is particularly important that the gathering of evidence should be as thorough as possible during the criminal proceeding. Events and acts entailing increased risks should be recorded in good quality and such recordings should be possible to archive in order to ensure the effectiveness of the investigation procedures, to determine the facts of crime and to carry out prevention tasks.

In the framework of a pilot project under way in the Ministry of Interior, a number of police officers will be equipped with body cameras. The aim of this project, which was built on the example of the “One patrol - one vehicle” project launched by the Budapest Police Headquarters in October 2011, is to make image and sound recordings of the actions taken by police officers.

These measures will considerably reduce the number corrupt crimes, partly due to eliminating the latent nature of corruption, and on the other hand will protect police officer by proving that he/she has acted lawfully and properly.

#### ***4.9.1. Development from European Union funding***

The Partnership Agreement approved by the European Commission for the 2014 to 2020 programming period states that additional efforts are needed in Hungary to prevent corruption and reform the system of public procurement.

The training of the staff participating or supporting the prevention of corruption and the strengthening of the public body performing internal crime prevention and detection activities (the NPS) are planned to be implemented in the framework of the Public Administration and Public Service Development Operational Programme (PADOP). These measures will ensure that the NPS possesses all the human resources and technical equipment necessary for carrying out and extend its detection activities.

## **5. MONITORING**

The relevant Government Decision (1336/2015 Government Decision on the adoption of the National Corruption Prevention Programme and the Action Plan of related measures for 2015-2016) names the Ministers responsible for implementing the measures aimed at achieving the objectives of the Programme. Implementation will be monitored based on the principles set out in the document.

The NPS will participate in the coordination of the implementation of the Programme and in the monitoring of its implementation. The NPS will also collect and compile the reports received from government agencies and independent state entities bearing a special responsibility for combating corruption; the monitoring reports on the implementation of the Programme and the Action Plan(adopted by the Government Decision); the findings of relevant Hungarian researches; and the recommendations and findings made by international and civil organisations on an annual basis.

The duration of the Programme is four years.

Monitoring the implementation of the Programme shall be the duty of the Minister of Interior, who will report to the Government on the progress of implementation, and on the effect and achievements of the tasks specified in the Action Plan by 31 March 2017. Consequently, the Ministry of Interior will review the Programme and prepare the action plan for the period of 2017-2018 within two months after the report is approved by the Government.