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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
WORKING GROUP ON BRIBERY IN INTERNATIONAL BUSINESS TRANSACTIONS**

HUNGARY: FOLLOW-UP TO PHASE 3 REPORT AND RECOMMENDATIONS

The Working Group adopted this document through the written procedure on 31 July 2014.

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SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY

1. In June 2014, Hungary presented its written follow-up report to the Working Group on Bribery (Working Group), outlining its responses to the recommendations and follow-up issues identified by the Working Group at the time of Hungary's Phase 3 evaluation in March 2012. Hungary has taken steps to implement a number of recommendations, with 5 out of 23 recommendations fully implemented, 12 partially implemented and 5 not implemented. One recommendation has not been assessed because it is beyond the scope of the Convention.
2. With regard to enforcement since March 2012, the Hungarian authorities have not opened any new cases of foreign bribery. A foreign bribery investigation involving activities of Magyar Telekom Plc in the Former Yugoslav Republic of Macedonia, which was under investigation at the time of Phase 3, is ongoing. Hungary sought mutual legal assistance in relation to the case in August 2013 and has suspended the investigation while awaiting the response.
3. Hungary has not addressed several important recommendations relating to enforcement. Hungary has not implemented a mechanism to compile comprehensive annual statistics on mutual legal assistance and extradition requests (*recommendation 4*). More seriously, no steps have been taken to limit immunities from investigations and prosecutions in foreign bribery cases – for instance by amendments to the Criminal Code provisions (*recommendation 3b*). Ever since Phase 2 in 2005, the Working Group has expressed concern that immunities are too broad in scope, apply to a large class of persons and decisions to lift immunities may be made on the basis of political or other improper considerations rather than the interest of justice. Furthermore, Hungary has not taken measures to extend the two-year investigation time limit, which may prove too short in the context of large and complex foreign bribery cases (*recommendation 3f*). Hungary explained that consideration may be given to this issue as part of possible amendments to its criminal justice regime. The Working Group will follow-up on Hungary's efforts to address *recommendation 3f* in December 2014, given the importance of this issue.
4. Hungary has nevertheless taken steps to improve enforcement of the foreign bribery offence and partially implemented several related recommendations. The Working Group welcomes the increase in resources of the public prosecution service; resources which could improve detection and investigations of foreign bribery cases, but reminded Hungary that more proactivity is still needed (*recommendation 3e*). In terms of enforcement data, Hungary has improved its collection system but, in the absence of cases, is unable to demonstrate that comprehensive statistics are gathered, including information on the investigative measures taken and the grounds on which any discontinuance is made (*recommendation 3d*). Hungary has provided training to police regarding the application of the foreign bribery offence to legal persons, but adequate efforts have not been made to train judges and prosecutors on the specific issue of legal person liability (*recommendation 2d*).
5. The Working Group is satisfied that Hungary has given sufficient high-level consideration to whether persons indirectly affected by non-prosecution decisions should have a right of appeal, although Hungary determined that the right should not be granted (*recommendation 3c*). The Working Group further concludes that *recommendation 3a* (which asked Hungary to establish a centralised bank account database) is beyond the scope of the Convention. However, future evaluations should follow up on the substantive issue that informed the recommendation, namely, the ability of law enforcement officials to scrutinise the bank account information of a suspect.
6. Hungary's foreign bribery offence has been significantly strengthened by legislative amendments that came into effect from 1 July 2013 (Act C of 2012). Amendments made to the Criminal

Code fully implement *recommendation 2a* by ensuring that prosecution of a legal person may proceed even if a natural person is not prosecuted or convicted. Further, legal person liability is no longer limited to situations where the bribe was paid in order to benefit the specific legal entity subject to prosecution (*recommendation 2b*). A legal person may also be liable if the offence was committed “with the use of the legal entity”. As the application of this new phrase is untested, *recommendation 2b* is partially implemented, pending case law. The amendments have also expanded the scope of liability of senior company officers (directors or persons with supervisory powers) for bribes paid through intermediaries (*recommendation 1*). Hungary assures that liability of legal persons for bribery via an intermediary (which could include a related legal person) is covered by operation of Act CIV of 2001, which applies the relevant provision of the Criminal Code to legal persons. In the absence of cases to confirm Hungary’s interpretation, the Working Group concludes that *recommendation 1* is partially implemented. However, Hungary has not consulted with businesses to establish minimum standards with regard to appropriate supervision by persons whose actions can subject a legal person to liability and *recommendation 2c* thus remains unimplemented.

7. Hungary has made some progress on recommendations to improve accounting standards, external audit and corporate compliance programs. Hungary has given due consideration to requiring external auditors to report suspected acts of foreign bribery to competent authorities, ultimately deciding not to impose such an obligation (*recommendation 5a*). Awareness-raising for auditors has been provided, but not for accountants (*recommendation 5b*). Hungary has taken limited steps to encourage companies to develop internal controls, ethics and compliance programs to prevent and detect foreign bribery and the Working Group calls on Hungary to step up efforts in this area (*recommendation 5c*). However, the Working Group is encouraged to learn that the Hungarian Investment and Trade Agency in collaboration with the Ministry of Justice is planning to implement an awareness-raising program to encourage Hungarian businesses to adopt these measures.

8. Regarding tax measures, the Working Group welcomes the signature by Hungary of the Multilateral Convention on Mutual Assistance in Tax Matters on 12 November 2013 and notes that the ratification process is expected to be finalised in 2014 (*recommendation 6b*). Hungary provided some training to tax officials on hidden commissions and detection techniques to help detect bribery, but more targeted and more regular training is needed to fully meet *recommendation 6a*.

9. The Working Group is disappointed at the low level of Hungary’s awareness raising efforts targeting the private and public sectors (*recommendation 7b*). Since Phase 3 no awareness-raising measures for the private sector have been implemented, although Hungary is developing a briefing program and brochure for Hungarian businesses. Hungary should ensure that these planned measures specifically address foreign bribery risks. While Hungary’s Corruption Prevention Programme lists foreign bribery as a specific priority, Hungary should ensure that the Programme delivers a more proactive and coordinated approach to combating foreign bribery in line with *recommendation 7a*. Efforts to raise awareness of the reporting obligation for public officials need to be increased and appropriate reporting policies and procedures developed (*recommendation 8a*).

10. The Working Group welcomes Hungary’s new law on whistleblower protection (Act CLXV of 2013 on Complaints and Public Interest Disclosures), which came into effect on 1 January 2014. The law provides protection to persons who report foreign bribery, although questions remain regarding some practice aspects of its implementation and Hungary needs to raise awareness of the new protections among the public and private sectors (*recommendation 8b*). The Working Group notes Hungary’s assurance that a communication strategy will be jointly implemented in 2014 by the Ministry of Justice and the Office of the Commissioner for Fundamental Rights. The Working Group recommends that future evaluations follow-up on the practical application of the law.

11. Finally, regarding public advantages, Hungary has fully implemented *recommendation 9a* by putting in place systematic mechanisms allowing for the effective exclusion of companies convicted of foreign bribery from public procurement contracts. These mechanisms include an online database of convicted natural persons as well as recording of convictions of legal persons in the company registry. The company registry also contains information about owners or managers convicted for bribery, a measure which would prevent those individuals from using a legal person to participate in public procurement. However, Hungary has taken no steps to implement *recommendation 9b*, concerning prevention of foreign bribery in contracts supported by official development assistance.

Conclusions of the Working Group on Bribery

12. Based on these findings, the Working Group concludes that *recommendations 2a, 3c, 5a, 6b* and *9a* are fully implemented; *recommendations 1, 2b, 2d, 3d, 3e, 5b, 5c, 6a, 7a, 7b, 8a* and *8b* are partially implemented; and *recommendations 2c, 3b, 3f, 4* and *9b* are not implemented. The Working Group will follow up in the context of future monitoring on the recommendations that are partially or not implemented, *follow-up items 10(a)-(j)* and the ability of law enforcement officials to scrutinise bank account information. The Working Group further invited Hungary to provide an oral report in December 2014 on steps taken to implement *recommendation 3f* (investigation time limit).

PHASE 3 EVALUATION OF HUNGARY: WRITTEN FOLLOW-UP REPORT

Name of country: Hungary
Date of approval of Phase 3 evaluation report: 16 March 2012
Date of information: 31 July 2014

PART I: RECOMMENDATIONS FOR ACTION

Recommendations for ensuring effective investigation, prosecution and sanctioning of foreign bribery

Text of recommendation 1:

1. With regard to the offence of foreign bribery, the Working Group recommends that Hungary take steps to ensure that its foreign bribery offence covers bribery through intermediaries, particularly in cases involving legal persons [Convention, Article 2; 2009 Recommendation, Annex I.C];

Action taken as of the date of the follow-up report to implement this recommendation:

On 1st July 2013, the Act C of 2012 on the Criminal Code (the new Criminal Code) entered into force in Hungary. The new Act made some significant changes in the regulation of corruption crimes in order that Hungary complies with its international obligations.

Besides other modifications, Article 293 of the new Criminal Code regulates “bribery of public officials” in the following way:

“Article 293

(1) Any person who gives or promises advantage to a public official or to another person on account of such public official in connection with the duties of the public official with the aim of influencing the public official is guilty of a felony punishable by imprisonment of up to three years.

(2) The briber shall be punishable by imprisonment between one to five years, if he/she gives or promises the advantage in order to induce the public official to breach his/her official duty, exceed his/her competence or otherwise abuse his/her official position.

(3) Any person who commits the criminal acts defined in Paragraph (1)-(2) in relation to a foreign public official shall be punishable as set forth therein.

(4) The director of an economic organization, and/or the person with authority to exercise control or supervision acting for or in the interest of the economic organization shall be punishable according to Paragraph (1), if a person acting for or in the interest of the economic organization commits the criminal act defined in Paragraph (1)-(3) for the benefit of the economic organization and the criminal act could have been prevented if he/she had properly fulfilled his/her control or supervisory obligations.

(5) The director of the economic organization or the person with authority to exercise control or supervision acting for or in the interest of the economic organization shall be punishable by imprisonment of up to two years for misdemeanor if he/she commits the criminal act defined in Paragraph (4) out of negligence.

(6) The punishment may be reduced without limitation – in cases deserving special consideration, it can

be disregarded – if the perpetrator who committed the criminal acts defined in Paragraph (1)-(2), before the authority becomes aware of the act, confesses the act to the authorities and reveals the circumstances of the commission.”

In case of this recommendation no. 1, Paragraph (4) above has to be highlighted. On the basis of this provision, if a person acting for or in the interest of the economic organization [this person can be either the employee of the economic organization (“inside person”) or for example an agent working in a foreign country, a person working for an affiliated company abroad or for any other intermediary of the economic organization (“outside person”)] bribes a public official (either a domestic or a foreign public official), the following persons shall be punishable, naturally depending on the concrete circumstances of the given case:

- the person who actually bribes the public official;
- the director and/or the person with authority to exercise control or supervision acting for or in the interest of the economic organization (this latter person can also be either an “inside” or an “outside person”), if the criminal act could have been prevented if this person had properly fulfilled his/her control or supervisory obligations.

As for the criminal liability of the legal person (the economic organization), Article 2 Paragraph (1) a) of the Act CIV of 2001 on the criminal measures applicable to legal persons has to be underlined. Pursuant to this provision:

“Article 2 (1) The measures defined in the present act are applicable to legal entities in the event of committing any intentional criminal act defined in the Criminal Code if the perpetration of such an act was aimed at or has resulted in the legal entity gaining benefit,

or the criminal act was committed with the use of the legal entity and by

a) the legal entity’s executive officer, its member, employee, officer, managing clerk entitled to represent it, its supervisory board member and/or their representatives, within the legal entity’s scope of activity,

b) its member or employee within the legal entity’s scope of activity, and it could have been prevented by the executive officer, the managing clerk or the supervisory board by fulfilling his/her/its supervisory or control obligations.

(2) Other than the cases defined in paragraph (1) the measures defined in this act shall be applicable even if committing the criminal act resulted in the legal entity gaining benefit, or the criminal act was committed with the use of the legal entity and the legal entity’s executive officer, its member, employee, officer, managing clerk entitled to represent it, its supervisory board member, had a knowledge of the commission of the criminal act.”

Article 2 (1) a) and b) are two separate cases: a) constituting liability based on the acts of the direct perpetrators of bribery, while b) constituting liability based on omitting to exercise proper supervision by those not having criminal responsibility regarding the bribery itself.

Under Article 2(1) a legal person can be liable for foreign bribery if any of the below mentioned persons engage in foreign bribery if the bribe was aimed at or resulted in the legal entity gaining benefit, OR the bribery was committed with the use of the legal entity, AND the bribery (regardless active or passive) was committed by:

(a) the legal entity’s executive officer, the legal entity’s member, employee, officer or managing clerk entitled to represent the entity, a member of the entity’s supervisory board and/or its representatives within the scope the legal entity’s scope of activity, OR

(b) the bribery was committed by the legal entity’s member or employee within the scope of activity in situations **and** it could have been prevented by the executive officer, the managing clerk or the supervisory board by properly fulfilling his/her/its supervisory or control obligations.

Under Article 2(2) a legal person can still be liable for foreign bribery where one of the following persons had knowledge of the bribe

- the legal entity's executive officer
- the legal entity's member, employee, officer or managing clerk entitled to represent the entity
- a member of the entity's supervisory board

and

- (1) the bribe resulted in the legal entity gaining benefit, or
- (2) the bribery was committed with the use of the legal entity.

Examples to the meaning of the phrase "with the use of the legal entity":

Example 1: If a legal entity fraudulently reclaims tax from the budget (e.g. based on false tax declaration or forged invoices – the declaration is made by the executive officer), the legal entity is liable and can be subject of sanctions according to Act CIV of 2001. Recently the prosecutorial practice picked up this line and a series of motions were made against (probably shell) companies in tax fraud cases.

Example 2: A private person wants to obtain a real estate currently owned by the local government. The sale is not an interest of the current owner, but the private person convinces via bribes the mayor to proceed with the transaction. However, before the local government is able to sell the real estate, it has to be made free of any passive debts but the local government lacks the financial means to lift these. Therefore the private person asks a legal entity to make a public commitment benefiting the local government thus provide it with the financial means. The money comes from the private person and according to the background agreement with the mayor, he will be compensated in the selling price. The legal entity contributing to the crime committed (bribery and misuse of official powers) can be liable and sanctioned according to Act CIV of 2012.

Example 3: The briber transfers through a company the illegal advantage by ordering from the public official or on behalf of him/her from a third person a study/essay etc. which has no real value for the company, but the company pays multiple prices for it comparing to the market price, in order to ensure that another company wins on a public procurement procedure.

In our interpretation, Article 293 Paragraph (4) of the new Criminal Code is a suitable basis for the application of Article 2 Paragraph (1) a) of the Act CIV of 2001. In other words, if the director and/or the person with authority to exercise control or supervision acting for or in the interest of the economic organization commits the crime regulated in Article 293 (4) of the new Criminal Code, then measures may be applied against the economic organization on the basis of Article 2 (1) a) of the Act CIV of 2001.

The Hungarian report also mentions that a significant portion of business abroad occurs through local intermediaries or agents. It also says that, if the intermediary or agent operated solely in the foreign country, it might be difficult to establish jurisdiction over that individual.

In connection with this question, it has to be noted that both the previous and the new Criminal Code contains the following jurisdictional rules:

“The Hungarian Criminal Code shall also apply to acts committed by non-Hungarian citizens in a foreign country, if the act in question is deemed a crime in accordance with the Hungarian law and is also punishable in accordance with the laws of the country where it was committed.

The Hungarian Criminal Code shall also apply to acts committed by non-Hungarian citizens in a foreign country, if the act is a crime which is punishable on the basis of an international treaty proclaimed by an act.”

On the basis of these jurisdiction rules, we think that if the intermediary or agent operated solely in the

foreign country, Hungary can establish its jurisdiction in accordance with one of the provisions above.

To sum up the above-mentioned facts, in our opinion, Hungary has taken the suitable steps to ensure that its foreign bribery offence covers bribery through intermediaries, particularly in cases involving legal persons.

If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 2(a):

2. With regard to the criminal liability of legal persons for foreign bribery, the Working Group recommends that Hungary:

- (a) amend its law on the criminal liability of legal persons for foreign bribery to eliminate the requirement that a natural person must usually be convicted and punished as a prerequisite to the imposition of sanctions on a legal person [Convention, Article 2; 2009 Recommendation, Annex I.B];

Action taken as of the date of the follow-up report to implement this recommendation:

To comply with recommendation 2a) and 2b), Hungary has made the review of the Act CIV of 2001. In the course of this process, we took into consideration the recommendations of Moneyval as well.

From 1st July 2013, the scope of the modified Act has covered the cases when the crime is committed with the use of the legal person. According to the Working Group, Hungary should amend its law on the criminal liability of legal persons to eliminate the requirement that “the bribe must have aimed at giving or have actually given such an advantage to the specific legal entity subject to prosecution”. This recommendation aimed at eliminating Hungary’s requirement that the legal person being prosecuted for bribery also needed to be the intended beneficiary of the bribe. In order to comply with this recommendation, Hungary has created the criminal liability of legal persons in those cases when the perpetrator commits a crime with the use of the legal person, even if the crime did not aim at or result in the legal person gaining benefit. We still think that for punishing a legal person, a link must exist between the crime and the legal person; this link would be the benefit (this condition would remain the same) and from 1st July 2013 the commission with the use of the legal person.

According to the Working Group, another obstacle of the effective application of the Act is the condition pursuant to which, for establishing the criminal liability of the legal person, the criminal liability of the natural person (the perpetrator) must be established. However, this latter fact cannot be determined in every case. In the view of the Working Group, the Hungarian regime that required, with some exceptions, the conviction and punishment of the natural person who perpetrated the offence did not meet the standard established by the Working Group. That is why, the legislator has widened significantly the

scope of those cases when a measure can be applied against a legal person, even if the natural person committing the crime cannot be held criminally liable, though the fact, that a crime occurred is obvious. These cases are as follows:

- a) the identity of the perpetrator could not be established in the investigation, thus the investigating authority or the prosecutor suspended the investigation,
- b) the prosecutor has terminated the investigation, since the crime was not committed by the suspected person or on the basis of the data of the investigation it could not be established that the crime was committed by the suspected person,
- c) the court in its acquittal has established that the crime was not committed by the accused or on the basis of the data of the proceedings it could not be established that the crime was committed by the accused,
- d) the perpetrator cannot be punished due to his/her death, mental illness, voluntary restitution or coercion or threat, or
- e) the proceedings have been suspended because the perpetrator stays in an unknown place, he/she has chronic, serious illness or he/she became mentally ill which occurred after the commission of the crime.

Also, another modification compared to the previous text is that if the court applies confiscation or confiscation of property (which according to the Hungarian law is not a punishment but a measure), it can also apply measures against the legal person.

For those cases when it is possible to apply a measure against a legal person, but the prosecutor or the investigating authority has suspended or terminated the investigation against the natural person, the Act set up new procedural rules.

The text of Article 2 and 3 of the Act CIV of 2001 as it stands from 1st July 2013 is as follows:

“Article 2 (1) The measures defined in the present act are applicable to legal entities in the event of committing any intentional criminal act defined in the Criminal Code if the perpetration of such an act was aimed at or has resulted in the legal entity gaining benefit, or the criminal act was committed with the use of the legal entity and by

- a) the legal entity’s executive officer, its member, employee, officer, managing clerk entitled to represent it, its supervisory board member and/or their representatives, within the legal entity’s scope of activity,*
- b) its member or employee within the legal entity’s scope of activity, and it could have been prevented by the executive officer, the managing clerk or the supervisory board by fulfilling his/her/its supervisory or control obligations.*

(2) Other than the cases defined in paragraph (1) the measures defined in this act shall be applicable even if committing the criminal act resulted in the legal entity gaining benefit, or the criminal act was committed with the use of the legal entity and the legal entity’s executive officer, its member, employee, officer, managing clerk entitled to represent it, its supervisory board member, had a knowledge of the commission of the criminal act.

Article 3 (1) If the court has imposed punishment on the person committing the criminal act defined in Article 2 or applied reprimand or probation against this person, ordered confiscation or confiscation of

property, it may take the following measures against the legal entity:

- a) winding up the legal entity,
- b) limiting the activity of the legal entity,
- c) imposing a fine.

(2) The measures defined in paragraph (1) can be applied even if the criminal act has aimed at or caused the legal entity gaining benefit, or the criminal act was committed with the use of the legal entity, provided that

a) the identity of the perpetrator could not be established in the investigation, thus the investigating authority or the prosecutor suspended the investigation,

b) the prosecutor has terminated the investigation, since the crime was not committed by the suspected person or on the basis of the data of the investigation it could not be established that the crime was committed by the suspected person,

c) the court in its acquittal has established that the crime was not committed by the accused or on the basis of the data of the proceedings it could not be established that the crime was committed by the accused,

d) the perpetrator cannot be punished due to his/her death, mental illness, voluntary restitution, coercion or threat, or

e) the proceedings have been suspended because the perpetrator stays in an unknown place, he/she has chronic, serious illness or he/she became mentally ill which occurred after the commission of the crime.”

If no action has been taken to implement recommendation 2(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 2(b):

2. With regard to the criminal liability of legal persons for foreign bribery, the Working Group recommends that Hungary:

- (b) remove the requirement that a bribe must have aimed at giving or have actually given a benefit to the specific legal entity subject to prosecution [Convention, Article 2; Phase 2 recommendation 4(a)(3)];

Action taken as of the date of the follow-up report to implement this recommendation:

Please see the joint answer in the previous point.

If no action has been taken to implement recommendation 2(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 2(c):

2. With regard to the criminal liability of legal persons for foreign bribery, the Working Group recommends that Hungary:

- (c) consult with Hungarian businesses to establish minimum standards with regard to appropriate supervision by the persons whose actions can subject a legal person to liability [Convention, Article 2; 2009 Recommendation, Annex I.B; Phase 2 recommendation 4(b)]; and

Action taken as of the date of the follow-up report to implement this recommendation:

In 2013 the Hungarian Parliament adopted the Act CLXV of 2013 on Complaints and Public Interest Disclosures, it was published in October 2013. Article 13 of this Act provides that the employer, and the owner of the business association (company) may establish compartment rules in order to safeguard the public interest or overriding private interest. The provision also sets out other conditions. According to the explanatory memorandum attached to the Proposal the legislator's aim is to repel infringements and corruption spread in the private sector, and to promote ethical corporate governance. The rules set out in the Act establishes the conditions and framework of the application of a practice already wide spread in multinational companies. However, this practice has been raised several data protection concerns, therefore the Act handles these data protection issues as well. (The system is similar to the so-called Sarbanes-Oxley-type regulation.)

It is also important to note that the Budapest Stock Exchange – its Corporate Governance Committee – prepared a Compilation of Corporate Governance Recommendations, based on the Recommendations of the European Commission. Based on the Recommendations, the concerned companies have to prepare a report every year in a “comply or explain” system. Among the Recommendations, point 2.8. deals with the inner control of the company and the risk management, and gives detailed guidance on the expectations how to comply with the recommendation. More information on the Recommendations in English, and document itself can be found on the following link (the website of the Budapest Stock Exchange): <https://client.bse.hu/topmenu/issuers/corporategovernance/cgr.html?pagenum=2>

If no action has been taken to implement recommendation 2(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 2(d):

2. With regard to the criminal liability of legal persons for foreign bribery, the Working Group recommends that Hungary:

- (d) provide additional training to prosecutors, judges and law enforcement regarding the application of the foreign bribery offence to legal persons [Convention, Article 2; 2009 Recommendation III and Annex I.B].

Action taken as of the date of the follow-up report to implement this recommendation:

Within the framework of the so-called Awareness Program, the Constitution Protection Office has been providing information for five years for prosecutors, judges and law enforcement officials on security consciousness related to the potential susceptibility of official persons to influence and bribery with regard to objects under national security protection. The aim of the program is to provide information about the risk factors and the potential threats which may result from the lack of security consciousness, and to supply the concerned individuals with some practical advice and proposals also suitable to prevent and minimise these threats.

There is a perceptible trend that criminal groups are increasingly turning to public sector also with the aim to acquire public funds, besides causing damage to private persons and private companies. Simultaneously with the inadequate use of public funds, corruption is also increasing inevitably, and there seems to be a growing threat that public sector employees become the target of criminal groups in acquiring unlawful gains. Within the framework of the implementation of the seven year policy strategy related to the Internal Security Fund to be created by the European Union for the 2014-2020 programming period, Hungary is planning to establish enhanced control mechanisms for the prevention of corruption and to organise specialised training under the new EU training system.

In line with the Corruption Prevention Programme of the Public Administration, the National Office for the Judiciary and the Prosecutor General's Office have prepared a report on their anti-corruption activities between April 2012 and May 2013.

In this first annual report they informed the Ministry of Public Administration and Justice (MOJ) that several training programmes have been provided for prosecutors and judges on combating corruption and the new Criminal Code which, in line with international treaties and recommendations sets out new corruption crimes, simplifies the structure of criminal acts introducing a new chapter Crimes of Corruption comprising all corruption crimes and regulates the criminal liability of legal persons. Additionally, representatives of the judiciary participated at the one year-long integrity adviser postgraduate course of the National University of Public Service (NUPS) and senior prosecutors of the Prosecutor General's Office participated at the two and half-day long integrity management trainings, organised by the NUPS.

In October 2012 the Hungarian Judicial Academy organised a two-day seminar for 24 sentencing judges and a three-day seminar for 119 judges on economic and financial crimes. The lectures of the seminars were held by judges, forensic experts and experts of the MOJ, the National Institute of Criminology and the Foresee Research Group Non-profit Ltd.

Within the general training of judges, there is continuous training in the topic of the crimes of corruption. Additionally, in December 2012 a conference entitled "The present situation of organised crime, its dogmatic and practical questions" was organised. This conference was attended by prosecutors and judges. At the conference, a representative of the National Police Headquarters shared his experiences related to the questions of the investigation of cross-border crimes. The dogmatic and practical questions of the topic were discussed by the representative of the investigating authority, prosecutors and judges in a round-table discussion. In the same topic, in April 2014 the conference was held again due to the changes in law and legal practices. In September 2014, another conference will be held (in the topic of organised crime) for criminal judges who are going to hear major cases. The Report entitled "Corruption Risks in Hungary" that was presented by the legal director of Transparency International was also part of the conference material.

The Prosecutor General's Office reported that in May 2012 the Hungarian Centre for the Training of Prosecutors provided practice-oriented training for prosecutors involved in the investigation of corruption cases. In line with the OECD's recommendations the training focused also on the international aspects of corruption. The Prosecutor General's Office started the education of the new Criminal Code at the end of 2012 with the participation of all prosecutors, substitute prosecutors and prosecutor trainees. Please see the list of events organised for prosecutors in the attached list below in Annex I.

Based on the reports it can be concluded, that prosecutors, judges and law enforcement personnel have been provided training elements concerning the criminal liability of legal persons and foreign bribery, but these have been part of general training programmes about corruption crimes and the new Criminal Code.

From a practical point of view, there is no difference in the application between foreign bribery offences and any domestic corruption case. The provisions of the new HCC integrated the foreign bribery with the domestic bribery. Regarding the legal persons, there is no specificity either.

Focus on the application of the foreign bribery offence to legal persons: In line with the answer provided earlier, officials working in the judiciary have participated in a one yearlong integrity adviser postgraduate programme. The programme included a course on international conventions against corruption, in which the OECD Convention on Combating Bribery of Foreign Public Officials was examined and thoroughly discussed. Several senior prosecutors participated in the two and a half day long integrity management training, which is a general training for public officials organized by the National University of Public Service. This training did not specifically deal with the Convention, although a case study in which the bribing of a foreign public official had a central role was discussed, since its aim was to strengthen organizational integrity and engagement in corruption prevention. Nevertheless, we see organizational integrity as an effective tool against all forms of corruption, including the bribery of foreign officials.

The **National Police Chief Directorate** has prepared the medium term anti-corruption strategy of the Police specifying internal and international training through the utilization of EU funds to finance the participation of staff members engaged in combating corruption in foreign field trips, international training sessions and conferences (organized e.g. by CEPOL and OLAF). The implementation and the monitoring of the strategy is performed continuously.

Implementing the abovementioned medium term anti-corruption strategy and beyond this, the following trainings and conferences were held on the topic of foreign bribery with the participation of police officers:

5th March 2014: international conference on cross-border corruption, together with Romanian and Serbian police officers with the title "Together against corruption – within and beyond borders".

The first integrity advisor at National Police Chief Directorate has graduated successfully at the National University of Public Service.

Furthermore, police officers participated at conferences of the Transparency International Hungary in the course of 2013 and 2014.

On 16-18 September 2013, the National Police Chief Directorate organized its fifth on-the-job training for the heads of the economy protection departments of the County Police Chief Directorates. At the event, among others, the problems related to actions against crimes involving bribery targeting foreign officials were discussed and analyzed. During the training presentations were held on the subject by the representatives of the prosecution and judicial organizations, as well as by the legal director of the Transparency International Hungary Foundation to provide information on the international practice.

Both before and after the entering into force of the new provisions on corruption of Act C of 2012 on the Criminal Code training sessions for the concerned police staff were held, in order to ensure the correct interpretation and application of the provisions, a commentary was issued and made available to all concerned organizational units.

Regarding recommendation 2(d) unfortunately we cannot verify that the specific issue of legal person liability was covered in the training provided to judges and prosecutors.

If no action has been taken to implement recommendation 2(d), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(a):

3. With regard to investigation and prosecution of foreign bribery, the Working Group recommends that Hungary:

- (a) establish a centralised bank account database in order to ease the task of investigators to map all bank accounts held by a particular person [2009 Recommendation, Annex I.D];

Action taken as of the date of the follow-up report to implement this recommendation:

From a constitutional point of view: The right to the protection of personal data is a fundamental right enshrined in Article VI of the Fundamental Law of Hungary, Article 8 of the Charter of Fundamental Rights of the European Union and also covered by Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Apart from these basic human rights instruments detailed regulation also exists on the subject matter on international, EU and domestic levels, such as the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Council of Europe), the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (European Union) and Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information (Hungary). It is also worth mentioning that the OECD itself developed and adopted its Guidelines on the Protection of Privacy and Trans-border Flows of Personal Data.

Being a fundamental right, the general principles applicable to the limitation of these rights, in particular the necessity and proportionality of such limitations are also applicable to the right of the protection of personal data. Consequently these basic principles as transposed to the specific nature of personal data processing are common in all the above mentioned instruments. Amongst others these principles require that personal data shall be processed for a specific and legitimate purpose (principle of finality), the data shall be adequate, relevant and not excessive with regard to that purpose and not kept for a longer period than it is necessary to fulfill that purpose.

The Hungarian Constitutional Court, in a considerable number of cases, has examined thoroughly the

constitutional nature of the limitations to the right to the protection of personal data provided for in legal instruments. In one of its milestone decisions that inspired future legislation the Constitutional Court has pointed out that “the condition and at the same time the most important guarantee of the right to informational self-determination is the principle of finality. [...]. It follows from the principle of finality that collection and storing of data for an indefinite purpose, for “stock”, for previously non-defined future processing is unconstitutional” [Decision Nr. 15/1991. (IV. 13.)].

The Constitutional Court later added that the “sheer informational interest” (of the data controller) and the “potential risk of the violation of law in the future and the prevention of such potential violation” is not a sufficient and plausible justification for the limitation of the right to the protection of personal data [Decisions Nr. 37/2005. (X. 5.) and Nr. 144/2008. (XI. 26.)].

Hungary considered the above recommendation of the Working Group to “establish a centralized bank account database in order to ease the task of investigators to map all bank accounts held by a particular person” and has come to the following conclusions.

According to the Hungarian Code of Criminal Procedure the authorities involved in the investigation of criminal offences are equipped with all the necessary tools to obtain any information held by any natural or legal person, or other entity in connection with the circumstances of the case under investigation, including but not limited to detailed information of bank accounts of the suspected perpetrators (see e.g. Articles 71 and 178 of the Criminal Procedure Act). Hence, the establishment of the recommended centralized bank account database cannot be deemed as being strictly necessary, since its aim can be achieved with legal institutions provided for already by the Hungarian legislation. Hungary believes that the existing legal institutions that allow conducting a targeted collection of information limit the right for privacy and the protection of personal data to a much lower degree compared to the one recommended by the Working Group.

It is also obvious that the majority of individuals never get involved in criminal offences as perpetrators, while the number of perpetrators involved in foreign bribery is even much lower. In spite of these circumstances the recommended centralized bank account database would limit the fundamental right to the protection of personal data of each and every individual having a bank account. Thus such a limitation of fundamental right would hardly be accepted as a proportionate one.

Based on the above listed international commitments and constitutional rules regarding the fundamental right to the protection of personal data Hungary believes that the establishment of the recommended centralized bank account database would not only run contrary to the principle of necessity and proportionality but its added value for the investigation and prosecution of foreign bribery is also doubtful.

It also has to be mentioned that there is not any provision either to establish a centralized database of all bank account held by any person under the scope of the Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC.

The **Payment Services Directive** (2007/64/EC – hereinafter PSD) has been implemented by Hungary with the Act LXXXV of 2009 on the Pursuit of the Business of Payment Services which entered into force on 1st of November 2009. According to article 79 of the PSD on data protection Member States shall permit the processing of personal data when this is necessary to safeguard the prevention, investigation and detection of payment fraud. The mentioned article also clearly states that **processing of personal data has to be carried out in accordance with Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.**

The Directive aims to protect the rights and freedoms of persons with respect to the processing of personal data by laying down guidelines determining when this processing is lawful. The guidelines among others relate to the quality of the data, this means that **personal data must be processed fairly and lawfully, and collected for specified, explicit and legitimate purposes**. Furthermore **Recital (49) of the PSD clarifies that the collection, processing and exchange** of personal data in order to facilitate effective fraud prevention across the Community **relates to the personal information of persons involved in payment fraud**. We believe that our previously explained approach is broadly in line with the framework of the PSD and Directive 95/46/EC.

When requesting information held by natural or legal persons, or other entity in connection with the circumstances of the case under investigation - including also detailed information of bank accounts of the suspected perpetrators - **the authorities involved** in the investigation of criminal offences **set a time limit of 8 to 30 days** according to Article 71 the Hungarian Code of Criminal Procedure. Article 68 Paragraph (2) of the Act XXXIV of 1994 on the Police stipulates a response without delay in situations when delay presents a risk and the case is related among others to money laundering. Article 58 paragraph (3) of the Act CCXXXV of 2013 on certain payment services explicitly refers to this obligation in relation to payment secret.

If no action has been taken to implement recommendation 3(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(b):

3. With regard to investigation and prosecution of foreign bribery, the Working Group recommends that Hungary:

- (b) consider taking appropriate measures, within the constitutional principles of the state, to ensure that (i) immunities are lifted in the context of foreign bribery investigations and prosecutions and (ii) immunity does not prevent the effective investigation and prosecution of foreign bribery offences [Convention, Article 5; 2009 Recommendation, Annex I.D; Phase 2 recommendation 3(f)];

Action taken as of the date of the follow-up report to implement this recommendation:

The right to immunity of Members of Parliament is guaranteed by Article 4 of the Fundamental Law of Hungary. Apart from MPs, a number of other officials are entitled to the right of immunity in order to ensure their independence. Such officials are the members of the Constitutional Court, the Commissioner for Fundamental Rights, the President of the State Audit Office, the Chair of the Budgetary Council, official and lay judges, public prosecutors, the member of the National Defense Council, Members of the European Parliament.

Immunity manifests in two forms: exemption from liability and inviolability. Exemption from liability is a guarantee of freedom of speech; an MP and a former MP cannot be held accountable for any statements made, speeches given or votes cast during his or her mandate. As an exception MPs are neither exempted from liability regarding civil law cases nor concerning certain criminal offences, such as incitement

against a community, open denial of nazi crimes and communist crimes, use of symbols of totalitarianism.

Inviolability means that an MP can only be detained if he or she has been caught in flagrante delicto and a proceeding can only be launched or conducted against him or her for a criminal or petty offence with the prior approval of the Parliament (that is with the suspension of immunity), nor can emergency provisions of criminal procedural law be applied without such prior approval. Except in a proceeding for a petty offence, an MP is not entitled to waive his or her immunity. Only the Parliament can suspend a Member's immunity with a two-thirds vote of the Members present at a plenary sitting.

Most frequently, it is individual plaintiffs who launch proceedings against MPs for libel or defamation of character. Such cases often go back to the election campaign when the MP was still a candidate. Taking into account the Constitutional Court's decisions on freedom of expression, the Parliament generally does not suspend the immunity of the MP involved in such cases.

However it is important to note that the practice followed by the Parliament is that regarding criminal offences that are prosecuted by the public prosecutor (e.g. foreign bribery offences), at the request of the Prosecutor General, the immunity of the MP allegedly involved in the commission of such an offence is suspended in each and every case.

It also should be highlighted that even in cases the Parliament upholds immunity, the case does not lapse. Immunity is not some sort of absolute prerogative; when an MP's mandate ends, he or she is no longer protected by immunity, a proceeding can be launched against him or her and he or she can be called to account.

Based on the above mentioned circumstances, Hungary believes that the current legislation in force is within the constitutional principles of Hungary and taking account of its application and the experience of such application so far it can be considered to be ensured that immunities are lifted in the context of foreign bribery investigations and prosecutions and immunity does not prevent the effective investigation and prosecution of foreign bribery offences.

When the immunity is not lifted, the investigation will be discontinued (according to Article 552 (2) HCPA) until the immunity period is over, after that the investigation will continue. The two-year investigation limit from the first hearing as a suspect does not pass during the discontinuation of the investigation. If the immunity granted by law was not suspended by the body having powers to do so, the period of time of such delay shall not be calculated in the period of limitations.(Article 28(3) HCC).

A MP can be interviewed as a witness even without requesting the immunity to be lifted if the MP is a witness of the case. Otherwise, a person who is under suspicion of committing a crime cannot be heard in a given procedure in other procedural position, only as a suspect. Thus, hearing such a person as a witness would not result in any admissible evidence due to the conflict of the veracity obligation of the witness and the prohibition of obliging to self-incrimination.

Please also see Annex II and III

If no action has been taken to implement recommendation 3(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(c):

3. With regard to investigation and prosecution of foreign bribery, the Working Group recommends that Hungary:

- (c) consider allowing those indirectly affected by decisions not to prosecute offences of foreign bribery, such as competitors or foreign states, to challenge such decisions [Convention, Article 5; 2009 Recommendation, Annex I.D; Phase 2 recommendation 3(d)]; and

Action taken as of the date of the follow-up report to implement this recommendation:

The possibility to seek legal remedy and challenge a decision made during the investigation by the investigating authority or by the prosecutor is rather broad (after a period of restricting this possibility, it was broadened again by an amendment in force since 1 January 2014). According to Article 195 Paragraph (1) of the Criminal Procedure Act (CPA), anyone to whom the decision of these authorities has direct effect has the right to challenge it. The denouncer has the right to challenge the decision only if he/she was the victim of the crime. The notion of victim is defined in Article 51 of the CPA: Victim is whose right or rightful interest was harmed or endangered by the crime committed. From these provisions, it can be concluded that competitors or foreign states, if at least one of the above criteria applies to them (directly affected by the decision or qualifies as the victim of the crime) within the given limits have the possibility to challenge such decisions.

Regarding all the above-mentioned facts, we do not wish to further broaden this right. We think that if Hungary ensured the right to challenge a decision to a disproportionately wide range of person that could easily result delay in the proceedings. On the basis of the recommendation, we have considered allowing broader possibility of challenging decisions but we think that it is not necessary because the current rules are quite appropriate.

During the preparation of the draft law mentioned above, the officials of the Ministry of Justice discussed this issue with senior members of the judiciary including judges from the Supreme Court, and senior prosecutors. The result of discussion was that at least the link between a certain decision and the person who is entitled to challenge it should be kept.

If no action has been taken to implement recommendation 3(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(d):

3. With regard to investigation and prosecution of foreign bribery, the Working Group recommends that Hungary:

- (d) gather statistics regarding the number of foreign bribery investigations that lead to prosecution or are discontinued, along with information about investigatory measures taken in and grounds for discontinuance of any foreign bribery investigation [Convention, Article 5; 2009 Recommendation, Annex I.D];

Action taken as of the date of the follow-up report to implement this recommendation:

The number of investigations and prosecutions were and is provided (no changes since the evaluation report), including the grounds for discontinuance based on the respective legal base [CPA Article 190 Paragraph (1)]. The currently available statistical data gathering includes information on coercive measures in the investigative phase amongst investigatory measures.

Please see also Annex IV. We also regard the chart on enforcement data sent to the OECD Secretariat in the framework of the yearly information providing obligation of Member States as valid and correct. For statistical data including information on coercive measure in the investigative phase, please see Annex IX.

If no action has been taken to implement recommendation 3(d), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(e):

3. With regard to investigation and prosecution of foreign bribery, the Working Group recommends that Hungary:

- (e) increase the use of proactive steps to gather information from diverse sources at the pre-investigative stage, both to increase sources of allegations and to enhance investigations [Convention, Article 5; 2009 Recommendation IX and Annex I.D]; and

Action taken as of the date of the follow-up report to implement this recommendation:

The National Police Chief Directorate has prepared the medium term anti-corruption strategy of the Police specifying in a separate action plan the use of proactive measures, the establishment of operative positions and the implementation of training, as well as the utilization of EU funds to finance the participation of staff members engaged in combating corruption in foreign field trips, international training sessions and conferences (organized e.g. by CEPOL and OLAF). The implementation and the monitoring of the strategy are performed continuously.

The National Police Chief Directorate has prepared the background material, the theme and the necessary documents on the subject of comparing the corruption situation of the region for the organization of an international conference under the relevant tender called by OLAF.

The National Police Chief Directorate organized its fifth on-the-job training for the heads of the economy protection departments of the County Police Chief Directorates and the appointed contact persons on corruption during the period 16-18 September 2013. At the event, among others, the problems related to actions against crimes involving bribery targeting foreign officials were discussed and analyzed in order to establish a uniform practice and to acquire the most effective methods of implementation. During the training presentations were held on the subject by the representatives of the prosecution and judicial organizations, as well as by the legal director of the Transparency International Hungary Foundation to provide information on the international practice.

With Act C of 2012 on the Criminal Code entering into force on 1 July 2013 the provisions for corruption crimes were modified to facilitate actions against bribery in relation to foreign officials. Both before and after the entering into force of the new provisions, training sessions for the concerned staff were held. In order to ensure the correct interpretation and application of the provisions, a commentary was issued and made available to all concerned organizational units.

The Prosecution Service has increased in general its capacity, sources and expertise to investigate and prosecute corruption case both national and international in nature. This process is still on-going and enables the prosecution to examine effectively every allegation in depth. However, according to the CIOPPS which has exclusive competence to investigate and prosecute bribery in international relations, there were no relevant allegations regarding such crime in the last 2 years.

If no action has been taken to implement recommendation 3(e), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(f):

3. With regard to investigation and prosecution of foreign bribery, the Working Group recommends that Hungary:

- (f) extend the two-year investigation time limit in cases of foreign bribery [Convention, Article 6; Phase 2 recommendation 3(e)].

Action taken as of the date of the follow-up report to implement this recommendation:

In accordance with Article 176 of the CPA, there is a procedural time limit of 2 months within which criminal investigations as a main rule are to be completed. This period is counted from the moment when the investigation is ordered or from the moment when the investigation commences. The investigation period has no time limit until a person on well-founded reasons is suspected and interrogated. Moreover, the 2 months deadline can be extended, according to Section 176 (1) and (2) CPA cited below. As long as a suspected person is not identified, the investigation will run with no time limit. Once the investigatory authorities interrogate the person as a suspect, the 2-year time limit will commence in respect of that person. This procedural time limit is in place in order to fulfil the requirements of Article 6 of the

European Convention on Human Rights (“the right to a fair and public hearing within a reasonable time”) since being a suspect entails disadvantageous consequences. It had never caused an obstacle in practice for prosecuting corruption offences, as most of the investigations have normally already been carried out at the point of confronting the suspect.

The text of the Article is as follows:

“Article 176

Deadline of the investigation

(1) The investigation shall be conducted within the shortest possible period and be concluded within two months following its order or start. If justified by the complexity of the case or an insurmountable obstacle, or if a procedural act ordered by law has to be carried out, the deadline of the investigation may be extended by six months by the prosecutor, and after the lapse of that deadline, by the chief prosecutor up to the lapse of one year from the commencement of the criminal proceedings.

(2) After one year, the deadline of the investigation may be extended by the chief prosecutor of the superior public prosecutor’s office, after two years by the Prosecutor General. If the investigation is conducted against a specific person, the extension may not be longer than two years following the questioning of the suspect under Article 179 (1), unless the Prosecutor General has extended the duration of the investigation until the deadline stipulated in the permission, based on Article 193 (3).”

Article 193 (3) says that if a procedural act is necessary but it cannot be carried out within 2 year, for the submission by the prosecutor, the Prosecutor General can extend the deadline of the investigation by 90 days in order to carry out the procedural act.

It can be seen that the extension of deadlines needs increased supervision by the prosecutor.

If no action has been taken to implement recommendation 3(f), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4:

4. With regard to mutual legal assistance (MLA), the Working Group recommends that Hungary put in place a mechanism to compile comprehensive annual statistics on all MLA and extradition requests, including requests relating to freezing, seizing and confiscation, that are sent or received, relating to the foreign bribery offence, including the nature of the request, whether it was granted or refused and the time required to respond [Convention, Articles 9(1) and 10(3); 2009 Recommendation XIV(vi)].

Action taken as of the date of the follow-up report to implement this recommendation:

At this moment, the statistical data gathering systems do not cover entirely the above requirements. Relevant data can be obtained: on the one hand from the case management system (concerning the number of MLAs, acceptance or refusal of an MLA request and the time required to respond), but the subject of the request are not there (only one relevant crime is stored, no data on the measures requested). On the other hand, the unified criminal statistics on law enforcement and prosecution (ENyÜBS) contains data on finished investigations (where decision on indictment or discontinuation has been made), but

since the approach of the two above mentioned systems are entirely different (dynamic vs. static), the data gained in one cannot be mirrored in the other.

The fulfilment of the recommendation requires the technical overhaul of the case management system. At this moment however, also bearing in mind the small number of the relevant cases and the exclusive competence of the CIOPPS, the requested information can be gathered by manual file inspection. (According to the CIOPPS which has exclusive competence to investigate and prosecute bribery in international relations, there were no relevant allegations regarding such crime in the last 2 years.)

The registry system of the Department of International Criminal Law of the Ministry of Justice and Public Administration is not adapted to compile statistics on all mutual legal assistance and extradition requests, yet. Such a registry system that is adapted for statistics can come into effect in case Hungary receives financial funding from the European Union between the period from 2014 to 2020.

The judicial document management system (BIIR) contains a registry that lists the processes with foreign reference pursuant to the Act XXXVIII of 1996 on International Legal Assistance in Criminal Matters and the Act CLXXX of 2012 on Criminal Co-operation with the Members of the European Union, including processes of freezing, seizing and confiscation. In line with the recommendation, the National Office for the Judiciary will perform the necessary steps for the enlargement of the registry so that the data requested in the recommendation (requests relating to foreign bribery, the results of their assessment) shall become more measurable.

If no action has been taken to implement recommendation 4, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Recommendations for ensuring effective prevention and detection of foreign bribery

Text of recommendation 5(a):

5. Regarding accounting standards, external audit and corporate compliance programs, the Working Group recommends that Hungary:

- (a) consider requiring external auditors to report suspected acts of foreign bribery to competent authorities independent of the company, such as law enforcement or regulatory authorities, and, where appropriate, ensuring that auditors making such reports reasonably and in good faith are protected from legal action [2009 Recommendation X.B(v)];

Action taken as of the date of the follow-up report to implement this recommendation:

In Hungary there is an expert working group which is responsible to create the Hungarian point of view in EU accounting and audit legislative procedures. The participants of the group are experts from the ministry of justice, ministry of foreign affairs, and ministry for national economy. Regarding the discussions of the adoption of International Standards on Audit (ISA) and the amendment process of the 2006/43/EC directive the working group examined the possibility to implement the recommendation in written procedures during the first quarter of 2013.

Auditors are obliged in Paragraph a) of Article 23 and Paragraph a) of Article 40 of the Act LXXV of 2007 on the Chamber of Hungarian Auditors, the Activities of Auditors and on the Public Oversight of Auditors (hereinafter: Act on Audit) to follow the Hungarian Standards on Audit. These standards covered the referred issues in line with ISA (International Standard on Auditing) standards (See: <http://www.ifac.org/auditing-assurance/clarity-center/clarified-standards>, ISA 240, The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements).

According to the Hungarian Audit Standards, in case of an auditor discovers any indication of a suspected act of bribery, he/she has to keep it as a business secret until the audit client gives a written explicit authorisation to report it to the relevant public authority (in accordance with ISA standards).

Regarding confidentiality, Article 66 of the Act on Audit requires statutory auditors (and audit firms) to treat all data and information, professional and business secrets (hereinafter referred to collectively as "secret") obtained in the course of carrying out statutory audits under strict confidentiality and professional secrecy. According to the referred Article, statutory auditors and audit firms may not use or publish the secrets without appropriate and express authorization, unless making such secrets available to the public is his/her right or obligation by virtue of law.

If no action has been taken to implement recommendation 5(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(b):

5. Regarding accounting standards, external audit and corporate compliance programs, the Working Group recommends that Hungary:

- (b) take appropriate steps to raise awareness of the foreign bribery offence among auditors and accountants, including by ensuring that auditors and accountants benefit from regular training specifying the nature and accounting and auditing aspects of the offence in order to facilitate the detection of such acts [2009 Recommendation X.B(v); Phase 2 recommendation 2(c)]; and

Action taken as of the date of the follow-up report to implement this recommendation:

All registered statutory auditors must participate in the continuing professional training program. The objective of the annual continuing professional training program is to preserve and improve professional competence (including the training of ISA standards). Raising awareness of the foreign bribery offence takes place at the annual mandatory trainings of auditors.

In 2013 the registered statutory auditors continuing professional training program (in which the participation is obligatory for all registered auditor) put emphasis on the bribery offence. The training was organised by the Chamber of Hungarian Auditors and covered inter alia:

- what shall the auditor to do if noticing any suspicion of foreign bribery until the audit of the financial statements;

- regulation of foreign bribery in the new Criminal Law;
- signs of foreign bribery.

The implementation of the chartered certified auditors' training program and the examination procedures shall be supervised by the minister in charge of accounting regulations within the scope of his public oversight authority. The authority shall have powers to monitor and evaluate the functioning of the continuing professional training program. For the purposes of this function, the public oversight authority monitor the professional training program of auditors, including fraud and bribery issues.

If no action has been taken to implement recommendation 5(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(c):

5. Regarding accounting standards, external audit and corporate compliance programs, the Working Group recommends that Hungary:

- (c) take measures to encourage companies, and especially the SMEs, to develop internal control, ethics and compliance programmes and measures for the prevention and detection of foreign bribery [2009 Recommendation X.C (i),(ii), Annex II].

Action taken as of the date of the follow-up report to implement this recommendation:

Encouraging ethical behaviour of enterprises and awareness-raising as to the importance of positively contributing to economic, environmental and social progress are objectives of the OECD Guidelines for Multinational Enterprises (Guidelines) and the Hungarian National Contact Point accordingly. One of the eleven chapters of the Guidelines relates to combating bribery, bribe solicitation and extortion. This chapter is based mainly on existing OECD documents including the Anti-Bribery Convention. It requires that enterprises “develop and adopt adequate internal control, ethics and compliance programmes or measures for preventing and detecting bribery”.

According to the recently elaborated Concept of Improving the Hungarian NCP, a new brochure has been prepared (http://oecd.kormany.hu/download/8/f1/00000/Brosúra%20fejlesztett_final_honlapra.pdf), and the homepage renewed (<http://oecd.kormany.hu/oecd-nkp>) etc. These together with other promotional activities substantially contribute to awareness-raising of enterprises on ethical behaviour including prevention of (foreign) bribery. Although the Guidelines relate to multinational enterprises, they provide useful guidance for all enterprises including SMEs.

With the introduction of a new institution called ‘lawyer for the protection of whistleblowers’ and regulating the whistleblowing systems maintained by employers, the Act CLXV of 2013 on Complaints and Public Interest Disclosures promotes action taken by the private sector against abuses and acts of corruption. The new act assures the fundamental legal guarantees for the companies’ whistleblowing systems assuring flexibility and respecting international standards.

The Government’s efforts to encourage companies to develop internal control, ethics and compliance

programmes for the prevention and detection of corruption will be reinforced by a briefing programme for Hungarian businesses organised by the HITA in cooperation with the MOJ.

In the framework of the Corruption Prevention Programme, the Ministry of Public Administration and Justice (MOJ) is preparing the launch an awareness raising campaign on corruption prevention and the strengthening of public trust. As part of this campaign, the Hungarian Investment and Trade Agency (HITA), in cooperation with the MOJ, will prepare an informative and comprehensive brochure. The brochure will mainly focus on the Convention, the Hungarian legislation on foreign bribery, prevention and reporting of any relevant crimes or risks. This brochure will be distributed by HITA staff and economic attaches to SMEs and other relevant organizations. The awareness raising campaign will put special emphasis on the importance of organizational integrity and integrity management, thus it will encourage companies to develop compliance programmes.

The OECD Guidelines for Multinational Enterprises (Guidelines) are recommendations addressed by the 46 adhering governments (including Hungary) to multinational enterprises on responsible business conduct. The Guidelines are supported by a unique implementation mechanism of National Contact Points (NCP) to promote and implement the Guidelines. The NCPs assist enterprises and their stakeholders to take appropriate measures to further the implementation of the Guidelines. Chapter VII of the Guidelines, declares that “enterprises should not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage” Point 77 of the Commentary of the Guidelines reaffirms that enterprises should “develop and adopt adequate internal controls, ethics and compliance programmes or measures for preventing and detecting foreign bribery, taking into account the Good Practice Guidance on Internal Controls, Ethics and Compliance, included as Annex II to the 2009 Anti-Bribery Recommendation”. Consequently, proper awareness raising about the Guidelines means awareness raising about the OECD Anti-Bribery Recommendation as well.

Hungary’s National Contact Point has concluded promotional activities at the following meetings which has been held with the participation of SMEs.

- Title: CSR Hungary Club Meeting Date: 26 Feb 2014 Place: Budapest Further details: Topic: Discussion with CSR Hungary Price Winners (Distribution of the Hungarian OECD Guidelines Brochure)
- Title: V4 Corporate Governance Conference Date: 12 Mar 2014 Place: Budapest, Ministry for National Economy Further details: Topic: Corporate Governance (apropos of the review of the OECD Principles of Corporate Governance) Distribution of the Hungarian OECD Guidelines Brochure
- Title: Preparation of future diplomats in the Ministry for National Economy Date: 24 Apr 2014 Place: Budapest, Ministry for National Economy Further details: Topic: Activity of OECD including the Guidelines for Multinational Enterprises and the Activity of the OECD National Contact Point , distribution of the Hungarian OECD Guidelines Brochure

Furthermore, the organisation by the NCP of an awareness-raising conference with a special focus to SMEs is envisaged for the coming winter.

If no action has been taken to implement recommendation 5(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(a):

6. With regard to tax measures, the Working Group recommends that Hungary:

- (a) provide, on a regular basis, training for tax officials with respect to hidden commissions and detection techniques to help detect concealed bribes in practice [2009 Recommendation VIII(i)]; Phase 2 recommendation 2(b)]; and

Action taken as of the date of the follow-up report to implement this recommendation:

Within the Hungarian National Tax and Customs Administration (HNTCA), employees are provided with initial training on actual legislation covering bribery and detection techniques before starting activities at the HNTCA. They are provided further training when the legislative environment applicable changes or when major changes occur affecting the rules of the HNTCA. Training on the relevant legislation is held in an organized system for every new entrant and every person handling clients relations; training and the explanation of and compliance with the relevant legislation and requirements apply for contractors as well.

The main focus of our trainings organised for tax and customs employees is to develop competencies are needed for their scope of activities. Fraud and bribery issues are in focus of our training programmes depending on the position of the participants.

Our seven-days specialised program for tax controllers of affiliated companies gives special knowledge about the activities, the rules of accounting, the balance sheet, profit and loss account of the enterprises, within the detecting of illegal deductions from tax base.

The study of real cases part of our training for the Detection of economic crimes support the participants to realize and appropriate documentation of fraud and bribery, and crimes which are against accounting order, and shows the suspicion of unclear, hidden payments.

In the year of 2014 we are emphasising the topic of bribery – depending on the aim of the course and the group of the participants – on all our relevant trainings.

Attendance on the training is certified by the attendants who are expected to sign a statement of participation. Participants of the training are required to make a statement and confirm that they are familiar with and abide by rules. Only individuals - including contractors - having received the training may access the IT systems of the HNTCA and the data stored in the systems. No access right may be granted in the lack of training and the relevant certificate.

Besides the general initial training and yearly trainings, there are regular specific training courses on certain topics for tax and customs officials. Bribery is a topic which can be covered by these special trainings, giving an in-depth analysis to hidden commissions and detection techniques to help detect concealed bribes in practice. For example in 2013 the HNTCA – based on the experience of the pilot training of 2012 – organised a one-day preparatory course for the colleagues of the tax, customs, excise and criminal directorates. The aim of the course was to prepare the participants to recognise the bribery at the office, to handle and prove the event detected in an appropriate and expected manner and to report it to the hierarchy. The speakers of the course were the experts of the HNTCA and its partner organisations.

The integrity and ethics training modules provided for public officials in the framework of the Corruption Prevention Programme is also available for tax officials, however it is a general ethics and anti-corruption training programme. Although it touches upon issues of foreign bribery, it cannot be considered as a specialised training to help tax officials to detect concealed bribes in practice.

In addition to the trainings described above, HNTCA has a separate department (Priority Affairs Directorate) which is responsible for the control of priority affairs, i.e. large taxpayers, affiliated companies. Besides the obligation of regular annual trainings, the officials of this directorate are also obliged to attend special annual seven-day trainings which put emphasis on bribery issues (including foreign bribery) and gives special knowledge about it.

If no action has been taken to implement recommendation 6(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(b):

6. With regard to tax measures, the Working Group recommends that Hungary:

- (b) consider signing the Multilateral Convention on Mutual Assistance in Tax Matters and including the optional language in paragraph 12.3 of the Commentary to Article 26 of the OECD Model Tax Convention in all future bilateral tax treaties [2009 Recommendation VIII(i); 2009 Tax Recommendation I (ii)-(iii)].

Action taken as of the date of the follow-up report to implement this recommendation:

Hungary signed the Multilateral Convention on Mutual Assistance in Tax Matters. Mr. Gábor Orbán, state secretary for taxation and financial policy affairs from the Hungarian side and Mr. Angel Gurría secretary general of the OECD signed the agreement on the 12th of November 2013. The ratification process is on-going and is expected to be finished during 2014.

The optional language in paragraph 12.3 of the Commentary to Article 26 of the OECD Model Tax Convention is now part of the Hungarian model which is the base of the negotiations on a double taxation agreement from the Hungarian side. The negotiation process on a double taxation treaty is however a lengthy process and needs more years to conclude an agreement after the first communication between two countries and the final outcome of the negotiations depends on the partners' positions as well.

Since the Phase III Report Hungary has concluded and ratified two treaties on the elimination on double taxation which concludes the optional language in paragraph 12.3 of the Commentary to Article 26 of the OECD Model Tax Convention, these are

- the Agreement between the Republic of Hungary and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, signed in 2011 and
- the Convention between Hungary and the Swiss Confederation for the avoidance of double taxation with respect to taxes on income and on capital signed in 2013.

If no action has been taken to implement recommendation 6(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 7(a):

7. Regarding awareness-raising, the Working Group recommends that Hungary:

- (a) ensure that foreign bribery is addressed in the national anti-corruption strategy as an explicit priority in order to promote a proactive and coordinated approach to combating this type of corruption, and ensure a clear allocation of responsibility to specific agencies for prevention and combating of foreign bribery [2009 Recommendation II]; and

Action taken as of the date of the follow-up report to implement this recommendation:

Awareness-raising activities of the Hungarian National Contact Point for the OECD Guidelines covers combating (foreign) bribery as described in recommendation 5/c above. In 2014, these activities are to be strengthened including a stakeholder conference on responsible business conduct apropos of the OECD Guidelines. Information campaign about the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions will be incorporated into the program of the conference.

It also has to be noted that the Government adopted the Corruption Prevention Programme of the Public Administration with the Government Decision 1104/2012. (6. April), which states that:

“19. With the aim of practical implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, an information campaign has to be initiated for the Hungarian enterprises in connection with bribes committed in international relations.

Responsible: Minister of National Economy, Minister of Foreign Affairs”

and

“20. With the aim of practical implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions the concerning legislation has to be reviewed based on the reports evaluating Hungary.

Responsible: Minister of Public Administration and Justice”

The Government Decision 1104/2012 provides that *“With the aim of practical implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, an information campaign has to be initiated for the Hungarian enterprises in connection with bribes committed in international relations.”* In order to implement this provision, a cooperation agreement was signed between MOJ and HITA. The end date of the Corruption Prevention Project is 30 Nov 2014, therefore some measures are under development and will be only implemented later. The awareness raising campaign is one of the major components yet to be implemented. However, several other measures were taken, such as:

- signing a cooperation agreement between MOJ and HITA
- training on foreign bribery for HITA staff provided by MOJ
- consultation on the awareness raising campaign with different stakeholders, developing the major elements of the campaign and a preliminary campaign strategy
- experts of MOJ have given several presentations on integrity and corruption preventative measures to large private companies

The integrity approach generally implies a proactive attitude. Instead of focusing solely on criminalization and enforcement, it calls for taking preventive measures and strengthening of organizational integrity. Thus it invites private and public stakeholders to engage in a more proactive and collaborative approach.

The result of the review referred to in Paragraph 20 of the Programme was the amendment of Act CIV of 2001 as mentioned in our written answers at recommendations 2a and 2b, and the relevant provisions of the new Criminal Code as mentioned at recommendation 1.

If no action has been taken to implement recommendation 7(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 7(b):

7. Regarding awareness-raising, the Working Group recommends that Hungary:

- (b) (i) reinforce measures to raise awareness about foreign bribery targeting the private sector (including private companies) and the public agencies and (ii) ensure that the HITA, MFA and other public agencies working with the Hungarian companies operating abroad develop training programmes focusing on foreign bribery for their own staff and provide practical guidance about risks of and measure to prevent foreign bribery to the private sector [2009 Recommendation III(i); Phase 2 recommendation 1(a)].

Action taken as of the date of the follow-up report to implement this recommendation:

The MOJ has signed a partnership agreement with HITA in January 2014. According to the agreement they will cooperate to develop a briefing program for Hungarian businesses to help avoiding unfair market conduct, especially bribery in their dealings abroad and to inform them on potential legal ramifications and related consequences so that they can allocate their resources to increase their competitiveness. Additionally, special trainings material was elaborated and special training was held on 16 May for the staff of HITA focusing on risks of corruption and bribery of foreign public officials. Almost one third of the HITA staff has participated. The training received positive feedback from the participants.

In order to implement the recommendations of OECD, HITA decided to execute a two pillar action plan. The first pillar is building up an own integrity system, while the second pillar is an extended cooperation beyond the internal organization.

On the basis of document GOV/PGC(2009)21 published by OECD, HITA commenced to evolve its own integrity management system within the confines of the first pillar. During the build-up of its integrity management system, HITA considered the education of its own employees as high priority. Emphasis was placed on training integrity advisors, as well as on organizing shorter classroom trainings for the majority of the personnel. As a result of the efforts, by 2014 HITA has had the highest per capita number of professional integrity advisors in the Hungarian administration (one trained integrity advisor for every 75 employees), and 10% of the personnel of the Agency participated in trainings to integrity in 2013. The training in question is a general training on integrity and corruption prevention provided by the National University of Public Service to public servants. The training focuses to integrity building and prevention. The training does not explicitly target foreign bribery (however a case study on the harmful effects of foreign bribery was used in the training), but it aims to improve the ability to identify possible corruption risks, provide tools to prevent and mitigate these risks, sensitize public servants to the detrimental effects

of corruption, strengthen organization integrity and ethical conduct. We believe that the integrity approach and the above-listed personal abilities to prevent corruption have a key importance in the fight against foreign bribery and all the other forms of corruption. Organizing such integrity trainings for the personnel is of course a high priority for HITA in year 2014 as well with the target of 50% of the employees having been trained by the end of the year. More training is to be held until the end of 2014.

Within the confines of the second pillar, HITA started to quest after external parties with related activities and aimed to find opportunities of cooperation. As mentioned above, in January 2014 HITA and the Ministry of Public Administration and Justice signed a cooperation agreement. The main purpose of this agreement is to foster the practical implementation of the pact against bribery pointing towards foreign officers and to support related professional work. To comply with the content of the cooperation, a brochure for the business partners of HITA is being developed in order to inform the actors of business sector about the anti-corruption measures of the government. Besides, trainings with the involvement of external experts about integrity and corporate compliance will be held for the co-workers of HITA.

In January 2014, Integrity Knowledge Centre was set up in the National University of Public Service in order to gather, enhance and cascade the professional knowledge about integrity and prevention of corruption. The Centre aims to promote national and international initiatives to strengthen integrity and public trust, as well as to educate young researchers exploring public service integrity and possible measures preventing corruption. To support these aims, HITA provides assistance through well-trained integrity advisors and cascades the already gathered knowledge base and experience among all the co-workers of the Agency.

As a unique form of cooperating with external partners, HITA also trains its interns in the topic of integrity. Besides providing them opportunity to gain professional experience, interns also mean replenishment for the organization – in 2013, approximately 10% of the new joiners were previously employed as interns. Due to this fact, HITA supports evolving interns' approach towards integrity and aims to raise their awareness on corruption. This aspiration of the Agency is primarily manifested in supporting participation in free or low cost trainings and conferences (e.g.: EuCham – Business Integrity Forum CEE 2014 – 07/04/2014). Besides the already existing collaborations, HITA is of course open for further substantive cooperation with either governmental or non-governmental organizations to foster integrity.

The Ministry of Foreign Affairs (MFA) organizes each year a preparatory course for diplomats and administrative staff to be posted abroad. A special awareness-raising lecture shall be included in that program, where experts provide practical information on the national anti-corruption strategy, with a focus on foreign bribery targeting public agencies and the private sector.

If no action has been taken to implement recommendation 7(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 8(a):

8. Regarding reporting foreign bribery, the Working Group recommends that Hungary:

- (a) raise awareness of the new obligation for public officials to report foreign bribery offences and develop appropriate policies and procedures to be followed in reporting to law enforcement authorities [2009 Recommendation III(iv), IX (i)-(ii)];

Action taken as of the date of the follow-up report to implement this recommendation:

With the adoption of the Corruption Prevention Programme of the Public Administration the Government has decided to provide large scale integrity and ethics training for public officials.

The MOJ in cooperation with the National University of Public Service has developed a one-day and a two-and-a-half day training course for public officials focusing on situational exercises and case studies. The courses facilitate familiarity with the tools capable of the proper management of corruption risk situation, and emphasize the individual's responsibility in the fight of corruption. Until 31 March 2014, 7293 staff member and 751 senior public officers, almost 10% of the total strength were participated at these trainings.

During the one-day long training on integrity provided to all public servants, it was pointed out that public officials are obliged to report bribery. Participants also received practical procedural information on reporting. It was also discussed during this training that bribery can have many different forms. However, the training held on 6 May to the employees of the HITA by the MOJ stressed the obligation of public officials to report foreign bribery. The training also provided procedural information. Since this was a training specialized on foreign bribery, it was made clear that the same reporting requirement applies to foreign bribery as to domestic bribery.

Besides awareness raising and education the Government supports reporting misconduct by establishing the rules of public interest disclosures (Act CLXV of 2013 on Complaints and Public Interest Disclosures), and introducing the institution of integrity advisors (Government Decree no. 50/2013.), who have to be appointed in every government agency and one of their tasks is to provide assistance to employees in ethics related matters.

The MOJ drafted a Green Paper in April 2013 which incorporates ethical standards to be observed by state organs, and which will function as a recommendation and guideline. Based on this Green Paper the National General Assembly of the Hungarian Government Officials Board (MKK) adopted the Code of Conduct for Government Officials on 21 June 2013, which establishes many sub-rules also, the obligation to report misconduct.

The central whistle-blower system operated by Office of the Commissioner for Fundamental rights has no special features designed for the report of foreign bribery. However, the general procedure enables the report of foreign bribery.

If no action has been taken to implement recommendation 8(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 8(b):

8. Regarding reporting foreign bribery, the Working Group recommends that Hungary:

- (b) clarify that the new legislation on whistleblowers provides protection to persons reporting foreign bribery, ensure that responsibility for the enforcement of this legislation is clearly allocated, and raise awareness of the new protection provided by the law, in particular, among those persons (both public and private) who could play a role in detecting and reporting acts of foreign bribery [Recommendation IX(iii)].

Action taken as of the date of the follow-up report to implement this recommendation:

Recognising the efforts made by whistleblowers in order to promote public interest and ensuring the measures needed for the fullest protection of whistleblowers the Hungarian National Assembly has adopted the Act CLXV of 2013 on Complaints and Public Interest Disclosures. The new act entered into force on the 1st of January 2014. supports whistleblowers – including those who report acts of foreign bribery – and ensures their actual protection, and also provides safeguards relating to the whistleblowing systems operated by private sector employers. It also clarifies the responsibilities for the enforcement of the legislation and the operation of the national whistleblower protection system.

To implement the regulations of the new act, the MOJ signed a partnership agreement with the Office of the Commissioner for Fundamental Rights and provided financial assistance for the development of the protected electronic system for public interest disclosures operated by the commissioner. The protected electronic system is available on the site <http://www.ajbh.hu/forduljon-a-biztoshoz>. The MOJ and the Office of the Commissioner for Fundamental Rights will jointly launch a communication campaign in 2014, to promote the electronic system, which is functional since the 1st of January 2014.

According to the Act, the minister responsible for justice will adopt a decree on the aids available to whistleblowers at risk and the rules governing the disbursement thereof, to ensure a high level protection.

For the text of the Act, please see Annex V.

If no action has been taken to implement recommendation 8(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(a):

9. Regarding public advantages, the Working Group recommends that Hungary:

- (a) take the necessary measures to put in place systematic mechanisms allowing for the effective exclusion of companies convicted of bribery of foreign public officials in violation of national law from public procurement contracts [2009 Recommendation XI (i)]; and

Action taken as of the date of the follow-up report to implement this recommendation:

The Government Decree 310/2011 (23 December) on the method of certification of suitability and verification of the non-existence of the grounds for exclusion as well as the definition of public procurement technical specifications in contract award procedures entered into force on 1st January 2012. Since then the Public Procurement Authority has published two guidelines in co-operation with the Ministry of National Development (MND) to help contracting authorities interpret the rules of Gov. Decree 310/2011 correctly.

The guidelines are available through the following links in Hungarian, English and German as well.

http://kozbeszerzes.hu/adatbazis/mutat/tajekoztato/portal_316328/

http://kozbeszerzes.hu/adatbazis/mutat/tajekoztato/portal_316327/

http://kozbeszerzes.hu/data/documents/2013/01/03/Guideline_2_grounds_for_exclusion_EU.pdf

http://kozbeszerzes.hu/data/documents/2013/01/03/Guideline_3_grounds_for_exclusion_Hungary.pdf

http://kozbeszerzes.hu/data/documents/2013/01/03/Anleitung_2_Einzureichenden_BestAtigungen_Erklarungen_Registern_und_Angaben_EU_EW.pdf

http://kozbeszerzes.hu/data/documents/2013/01/03/Anleitung_3_Einzureichenden_BestAtigungen_Erklarungen_Registern_und_Angaben_Ungarn.pdf

Other measures have also been taken in order to ensure that contracting authorities undertake actions against companies convicted of bribery of foreign public officials and other unlawful activities.

In 2011 a new monitoring system has been established by Gov. Decree 46/2011 (25 March) on the centralized monitoring and authorization of public procurement procedures within the institutional framework of MND to monitor and authorize public procurement procedures financed by domestic budgetary resources. The scope of the Decree covers all public bodies and organs falling under the direction and supervision of the Government, furthermore state-owned companies. Procurements financed from Union resources fall outside the scope of this monitoring system; however, these are strictly controlled by the EU auditors.

The monitoring activity aims to generate budgetary savings and to develop good practices in public procurement procedures. The MND exercises its controlling role at several stages of the procedure, and before a public contract is awarded, the approval of the MND is needed. One of the main focuses of the monitoring is the appropriate application of the exclusion grounds. Supervisors of MND double-check the contracting authorities' decisions (mainly regarding exclusions and compliance with selection and award criteria) in public procurement procedures.

To further enhance transparency, most of the documents produced by the contracting authorities during a public procurement procedure shall be published in the Public Procurement Database (PPD) on the following website: www.kozbeszerzes.hu. From 1 July 2013, everyone can browse between the published documents (notices, contracts, etc.) without any restriction, meaning free of charge and without any registration procedure. This database provides every single citizen, authority and civil organization etc. access to all the uploaded documents of every single public procurement procedure, including not only the notices (call for tender, contract award notices etc.), but certain documents related to the review procedure. This database can provide unprecedented increase in transparency, which further enhances public control over public procurements.

The company registry contains several information about the criminal proceedings against legal persons, even if it is only ongoing. Hungary maintains a list of owners or managers (i.e. natural persons) who have been convicted of a criminal offence including foreign bribery. (The list of convicted owners and managers can be found at the following link: <http://www.e-ceggyezek.hu/index.html>).

The company registry is to be checked systematically, first by the contracting authority, then by the supervisors of the MND. The supervisors generally check the legality of a public procurement, and in practice, first of all they check whether the chosen tenderer falls under any of the exclusion grounds. Before concluding the contract they also check the different databases, like the company register, they can search for the name or the registry number, or the tax number of the chosen company, and on the data sheet of the company, they can see if it is under liquidation, conviction etc. The contracting authority can only conclude the public contract if the supervisors give an approval.

If no action has been taken to implement recommendation 9(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(b):

9. Regarding public advantages, the Working Group recommends that Hungary:

- (b) establish (i) mechanisms to prevent risks of foreign bribery in contracts funded by official development assistance (ODA), including during the selection and monitoring phase of ODA funded projects, and (ii) sanctions to allow suspension from such contracts of companies convicted of bribery of foreign public officials [2009 Recommendation XI (i)-(ii)].

Action taken as of the date of the follow-up report to implement this recommendation:

Being an OECD member, Hungary's international development cooperation corresponds to the principles and guidelines of OECD. Majority of our bilateral projects are implemented by NGO's. International development cooperation (IDC) as an alternative way of penetrating into new markets, more specifically its potential commercial benefits, are not yet widely known and applied in Hungarian business circles, therefore the involvement of business enterprises is very limited. It is much desirable to change this state of play. While facilitating private sector engagement it is our firm goal to raise awareness of such preventing mechanisms which can reduce the risks of foreign bribery in ODA funded projects.

The Department for Tendering and Public Procurement of the Ministry of Foreign Affairs of Hungary operates under the currently existing Hungarian legislation, which has specific provisions to avoid corruption and contrariety. In accordance with the law, all applicants must declare any involvement or contrariety with the institution providing the grant (MFA). The department works closely together with other departments responsible for the use of the financial framework available for tenders and development assistance, and supervises the spending as well as accounting of these expenses. The law on public finance and aid transparency (law number CLXXXI of 2007) also serves as a guarantee to avoid corruption.

Hungary's international development assistance is provided by grants rather than public procurement processes. If any irregularities occur in the tendering process concerning the spending and accounting of any grants given by the Ministry of Foreign Affairs - for example, the applicant does not account for the whole expenditure of the grant given - then the applicant may not be granted the remaining of the granted amount, or it may have to repay the granted sum. The applicant can also be suspended from the tendering

process for a maximum of five years.

According to the contracts applied by MFA in connection with international development cooperation, any conduct which constitutes a breach of law in a wide sense would give ground for the suspension of the contract and the obligatory repayment of funds already allocated.

If no action has been taken to implement recommendation 9(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

PART II: ISSUES FOR FOLLOW-UP BY THE WORKING GROUP

Text of issue for follow-up:

10. The Working Group will follow up on the issues below as case law and practice develop:
- (a) the application of the foreign bribery provisions with regard to the definition of a foreign public official, including in cases involving employees of state enterprises [Convention, Article 1];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

No relevant changes in case law since the report. Still, the application does not seem to be problematic.

The definition of “foreign public officials” is taken place in the new Criminal Code in Article 459 Paragraph (1) point 13. The inclusion of the definition of foreign public officials into the previous and the new Criminal Code complies with international obligations.

The current text of the Act is as follows:

“13. 'foreign public official' shall mean:

- a) a person carrying out legislative, judicial, administrative or law enforcement task in a foreign state;*
- b) a person serving in an international organization created under an international agreement proclaimed by law, whose activities form part of the organization's activities;*
- c) a person elected to serve in the general assembly or body of an international organization created under an international agreement proclaimed by law, including a Member of the European Parliament elected in a foreign state; or*
- d) a member of an international court that is vested with jurisdiction over the territory or over the citizens of Hungary, and any person serving in such an international court, whose activities form part of the court's activities;”*

Text of issue for follow-up:

10. The Working Group will follow up on the issues below as case law and practice develop:
- (b) jurisdiction over cases of bribery of foreign public officials, notably as regards legal persons and offences committed in whole or part abroad [Convention, Article 4];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

No relevant case law since the report. A possible issue here is not the establishment of the jurisdiction but the solution of the conflict of jurisdictions.

The relevant text of the Criminal Code on jurisdiction is the following:

“Article 3

(1) The Hungarian Criminal Code shall apply to:

- a) crimes committed in the territory of Hungary;*
b) crimes committed on board of a Hungarian aquatic vessels or Hungarian aircraft situated outside the borders of Hungary;
c) acts committed abroad by a Hungarian citizen that are deemed crimes by Hungarian law.

(2) The Hungarian Criminal Code shall also apply to:

- a) acts committed by a non-Hungarian citizen in a foreign country, if:*
aa) the act in question is deemed a crime in accordance with Hungarian law and is also punishable in accordance with the laws of the country where it was committed;
ab) the act in question is a crime against the state – excluding espionage against allied armed forces and espionage against the institutions of the European Union – regardless of whether or not it is punishable in accordance with the law of the country where it was committed;
ac) the act in question is a crime defined in Chapter XIII or Chapter XIV, or any other crime that is punishable under an international treaty proclaimed by law;
b) the act is punishable according to Hungarian law and it was committed by a non-Hungarian citizen abroad against a Hungarian citizen, a legal entity set up based on Hungarian law or other subjects of law without legal personality.

(3) In the cases defined in Paragraph (2), the commencement of criminal proceedings shall be ordered by the Prosecutor General.”

Text of issue for follow-up:

10. The Working Group will follow up on the issues below as case law and practice develop:
- (c) with regard to the liability of legal persons, (i) the absence of case law dealing with the liability of legal persons in foreign bribery cases and (ii) how the requirement that the bribe must have aimed at or resulted in the legal entity gaining a “benefit” is interpreted in practice in foreign bribery cases [Convention, Article 2];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

No changes in the absence of case law. The (ii) seems to be not problematic based on substantial criminal law dogmatic.

The amended Act CIV of 2001 came into force on 1 July 2013 pursuant to international expectations (based on the recommendations of Moneyval and OECD). For the new regulation, please see the answers to Recommendation 2/a and 2/b.

Text of issue for follow-up:

10. The Working Group will follow up on the issues below as case law and practice develop:

- (d) the application of sanctions by the courts in cases of bribery of foreign public officials, to ensure they are effective, proportionate and dissuasive, especially in cases against legal persons [Convention, Article 3; Phase 2 follow-up issue 7(f)];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

1. There are three resolutions in force in the Compilation of Court Rulings that contain any measures against legal persons:

1.1 Decision No. 9B.529/2010/40. on 10 Oct 2011 of the **Budapest-Capital Court** entering into force by decision No. 3.Bf.245/2012/18. on 6 February 2013 of the Budapest-Capital Regional Court of Appeal as a court of second instance;

1.2 Decision No. 2.B.811/2008/119. on 18 March 2011 of the **Budapest-Capital Court** entering into force by Decision No. 5.Bf.353/2011/97. on 16 November 2012 of the Budapest-Capital Regional Court of Appeal as a court of second instance;

1.3 Decision No. 10.B.2041/2007/28. on 18 November 2008 of **Nyíregyháza City Court** entering into force by Decision No. 2.Bf.98/2009/4 of the Szabolcs-Szatmár-Bereg County Court and by the Resolution No. Bhar.II.57/2010/4. of the Debrecen Regional Court of Appeal on 17 March 2010.

Ref. to 1.1. The court found the three defendants guilty of trade secret infringement, and **imposed 10.000.000 HUF fine** besides other rulings on the legal person of which the accused were the employees and managers and in the scope of which they committed the actions.

The defendants caused 269.215.360 HUF loss to the business association in their relation by the illegal use and transfer of legally acquired data to abroad.

Ref. to 1.2. The court found defendants of primary to quaternary responsibility guilty as culprits of continuous smuggling, while the primary defendant was found guilty of continuous embezzlement as well, and the court **imposed 50.000.000 HUF fine** besides other rulings on the foundation qualified as prominently public benefit organisation. The president of the board of the foundation was the primary defendant and the untaxed products were given to the foundation as “donation.”

Ref. to 1.3. The court found the two defendants guilty as culprits of infringement of industrial property

rights, and culprits of false designation of products, and **imposed 500.000 – 500.000 HUF fine** besides other rulings on the forestry association the manager of which was the primary defendant as well as on the Ltd the manager of which was the secondary defendant. These legal persons illegally used the labels “EUR” and “MÁV” on their products.

2. None of the above is connected to cross-border corruption, as it can be seen from the resolutions.

Text of issue for follow-up:

10. The Working Group will follow up on the issues below as case law and practice develop:

- (e) whether, in practice, (i) both the bribe and the proceeds of the bribe are subject to seizure and confiscation or (ii) monetary sanctions of comparable effect are applicable [Convention, Article 3]; and

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

No changes in case law. These points do not seem to be problematic. For case studies, please see also Annex VI.

Pursuant to the Criminal Code (Article 74), the following property is obligatorily subject to confiscation:

- any property resulting from criminal activities, obtained by the offender in the course of or in connection with a criminal act;
- any property that the offender obtained during affiliation with organized crime;
- any property obtained by a drug trafficker during the period of committing the crime;
- any property that replaced the property resulting from criminal activities, obtained by the offender in the course of or in connection with a criminal act;
- any property that was supplied or intended to be used to ensure the conditions required or facilitating the commission of a crime;
- any property that was the object of a financial advantage given or promised.

Confiscation can only be performed in line with international agreements with regard to the obligatory confiscation of property obtained as a result of a criminal act.

The Criminal Code also defines the confiscation of property if it served the enrichment of another person. Confiscation of property shall be performed with regard to the property resulted from criminal activities, obtained in the course of or in connection with a criminal act, which is transferred by succession to another natural or legal person.

If the crime was committed by multiple persons, it shall be decided with regard to each perpetrator if confiscation shall be ordered and to what extent. National law does not allow to order confiscation to the same property (part of property, object, sum of money) against multiple perpetrators in unity or to make one perpetrator jointly liable for another perpetrator's property.

The Hungarian practice – pursuant to legal obligations – is that in cases of crimes of corruption, legal sanctions regarding property (confiscation, confiscation of property, additional financial penalty) shall be performed consistently.

Text of issue for follow-up:

10. The Working Group will follow up on the issues below as case law and practice develop:
- (f) (i) the training of CIOPPS with regard to the foreign bribery offence, particularly the confiscation of assets and (ii) the number of reports of suspected foreign bribery received by CIOPPS [Convention Article 3; 2009 Recommendation III(i)];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

According to the CIOPPS, no specific training was held focusing only on the foreign bribery offence. In 2012-2013 no reports were received on foreign bribery offence. Please see also the answer to Recommendation 2/d.

Text of issue for follow-up:

10. The Working Group will follow up on the issues below as case law and practice develop:
- (g) the measures taken by Hungary's FIU to monitor suspicious transaction reports (STRs) and improve quality of reports, including by taking steps to make sure that it receives relevant feedback on the STRs disseminated [Convention, Article 7];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Feedback

In the context of the Action Plan [Government Resolution no. 1303/2011. (IX. 2.)] on implementing the recommendations determined in the Moneyval's country report, the HFIU elaborated an impact study on the issue of feedback from LEAs. The hub of the impact study was outlining options for creating a feasible feedback mechanism in the context of HFIU-LEAs relation.

As a consequence the relevant authorities agreed with inserting feedback application into the law enforcement investigating database and IT case management system. This application would allow of retrieving the list of those criminal investigations which were either triggered by the HFIU, or disseminated by the HFIU for ongoing criminal investigations (reactive dissemination). Furthermore, these cases could not be formally closed within the case management system unless the investigator filled electronically the HFIU feedback form. The IT developments have been started accordingly.

Nevertheless at present, it appears that LEAs sending feedback more routinely from the year 2012. Probably the regional trainings and other awareness raising events have also contributed to this improvement.

According to the feedback received from the LEAs or public prosecutors the HFIU disseminations give

valuable information either proactively (triggering a case), or reactively (sending information to an ongoing case) for investigations of proceeds generating crimes as well as money laundering.

Trainings, consultations and other events

| 2011 | |
|---------------------|---|
| 28 March 2011 | Consultation on AML/CFT issues for co-operative savings banks (number of attendees: ca. 130) |
| 7 November 2011 | Consultation on AML/CFT issues for co-operative savings banks (number of attendees: ca. 110) |
| 31 March 2011 | Consultation on AML/CFT issues for banks (number of attendees: ca. 25) |
| 17 November 2011 | Consultation on financial sanctions for banks (number of attendees: ca. 25) |
| 15 April 2011 | AML/CFT conference in Budapest organised jointly by the World-Check and the HFIU (number of attendees: ca.170) |
| 27 April 2011 | Consultation on AML/CFT issues for accountants, tax advisors, tax consultants (number of attendees: ca.70) |
| 28 April 2011 | Consultation on AML/CFT issues for real estate agents (number of attendees: ca.50) |
| 26 October 2011 | Consultation on AML/CFT issues for accountants, tax advisors, tax consultants (number of attendees: ca.40) |
| 27 October 2011 | Consultation on AML/CFT issues for real estate agents (number of attendees: ca. 25) |
| 2012 | |
| 15 February 2012 | AML/CFT regional training for investigators (Central Hungarian Regional Directorate on Criminal Affaires – NTCA) |
| 20 March 2012 | AML/CFT regional training for investigators (Southern Transdanubian Regional Directorate on Criminal Affaires – NTCA) |
| 12 April 2012 | AML/CFT regional training for investigators (Northern Hungarian Regional Directorate on Criminal Affaires – NTCA) |
| 11 September 2012 | AML/CFT regional training for investigators – (Southern Great Plain Regional Directorate on Criminal Affaires – NTCA) |
| 10 October 2012 | AML/CFT regional training for investigators – (Central Transdanubian Regional Directorate on Criminal Affaires – NTCA) |
| 5 July 2012 | Consultation on AML/CFT issues for banks (number of attendees: ca. 25) |
| 22 March 2012 | Consultation with the representatives of the Hungarian Leasing Association |
| 14 June 2012 | Presentation and consultation for Non-Profit Association of Hungarian Financial and Economic Controllers/Auditors |
| 28 September 2012 | Presentation and consultation for one of the regional sections of the Non-Profit Association of Hungarian Financial and Economic Controllers/Auditors |
| 27 September 2012 | Presentation on the conference organised by the Hungarian Association of Criminology |
| April, October 2012 | Lectures on AML/CFT Issues for investigators at different Universities |
| 21-22 March 2012 | Training for customs officers on cash control issues – Liszt Ferenc Hungarian National Airport |
| 2013 | |
| 27 May 2013 | Presentation for the Hungarian National Bank (number of attendees: ca. 60) |
| 22 May 2013 | Presentation for the Eximbank (number of attendees: ca. 60) |

| | |
|------------------|---|
| 05 March 2013 | Presentation for the National Institute for Criminology (number of attendees: ca. 30) |
| 05 June 2013 | Consultation on AML/CFT issues for Bureaux de Change |
| 11 June 2013 | AML/CFT regional training for investigators (West Transdanubian Regional Directorate on Criminal Affairs - NTCA) |
| 11 June 2013 | Presentation in National University of Public Service – Police Academy |
| 28 June 2013 | Presentation in International Law Enforcement Academy |
| 12 March 2013 | Consultation with the representatives of National Gambling Co. |
| 29 April 2013 | Consultation on human trafficking with the Police |
| 30 April 2013 | Consultation on AML/CFT issues for Intelligence Office |
| 05 June 2013 | Consultation on AML/CFT issues for Intelligence Office |
| 14 May 2013 | Consultation on AML/CFT issues for Constitutional Protection Office (National Security Service) |
| 26 April 2013 | Consultation on AML/CFT issues for the Hungarian Supervisory Authority on beneficial ownership |
| 06 November 2013 | Consultation with the Chamber of Hungarian Auditors on AML/CFT issues |
| 14 November 2013 | Consultation with the representatives of the Hungarian Banking Association on the issues off shore, e-money and suspended transaction |
| 21 November 2013 | Consultation on financial crimes (abuses) from the aspect of the supervisory authority |
| 09 December 2013 | First phase of the project on cash control (increased controls) |
| 11 December 2013 | Cooperation in the field of fight against human trafficking |
| 12 December 2013 | Cooperation in the field of fight against human trafficking - workshop |

Changes in CDD rules

The Act LII of 2013 on the Amendment of Act CXXXVI of 2007 on the Prevention and Combating of Money Laundering and Terrorist Financing (AML/CFT Act), and of certain Related Acts was adopted by the Parliament and it entered into force on 1st July 2013.

The enhanced CDD provisions are extended in order to provide for opening a client account, a securities account, or a securities deposit account online. The enhanced CDD provisions on foreign PEPs cover the requirement for statement on data concerning the source of economic resources.

The AML/CFT Act introduces and provides for additional cases when reporting obligations shall be performed. The service provider shall investigate any information, fact or circumstance suggesting money laundering or terrorist financing in the case of the transaction is carried out or to be carried out or the transaction order initiated by the customer but not yet carried out as well as in cases when they are unable to carry out the customer due diligence measures specified in the AML/CFT Act.

Dissemination by the HFIU

According to Subsection 1 of Section 26 of the AML/CFT Act (in force before 1st July 2013) the HFIU was authorized to use the information obtained under the AML/CFT Act only for the purposes of prevention and combating money laundering and terrorist financing, and for the purposes of the investigation of acts of terrorism, unauthorized financial activities, money laundering, failure to comply with the reporting obligation related to money laundering, budgetary fraud, embezzlement, fraud and misappropriation of funds, and to disseminate such information to other investigative authorities, the public prosecutors, the national security services, the National Protective Service (as one of the key players in the field of anti-corruption) or the Counter-Terrorism Centre.

As a result of the Moneyval's country report and the subsequent Action Plan and impact studies a comprehensive amendment of the AML/CFT Act was adopted and came into force on the 1st July 2013. This amendment covers also the list of those criminal offences that serves as purposes of dissemination. The criminal offences as abuse of authority, bribery, influence peddling, bribery in international relations and influence peddling in international relations have also been added to this list due to the above mentioned amendment of the AML/CFT Act.

Functions of the HFIU

The activity, functions of the HFIU has been determined more accurately in the 26/B Section of the AML/CFT Act as follows:

(1) When there is any information, fact or circumstance indicating money laundering or terrorist financing, the authority operating as the financial intelligence unit, acting in its capacity, shall pursue analysing-assessing activity for the purpose of disclosing information specified in Subsection (1) of Section 26 and Subsection (1) of Section 26/A. During its analysing-assessing activity, the authority operating as the financial intelligence unit shall

a) compare the information obtained under this Act or Act XLVIII of 2007 on the implementation of Regulation 1889/2005/EC of the European Parliament and of the Council (26 October 2005) on controls of cash entering or leaving the Community, the information obtained from databases to which it has direct access, public information and information available for anyone, and the information collected to comply with the request under Section 25/A; reveal and interpret all connections between such information;

b) monitor financial transactions and processes related to the information specified in Paragraph a); examine business relationships and transaction orders;

c) make observations and conclusions in the interest of disclosing information with a view to combating money laundering and terrorist financing and preventing, detecting and investigating the crimes defined in Subsection (1) of Section 26.

(2) The authority operating as the financial intelligence unit shall investigate the characteristics of crimes related to the crimes under Subsection (1) of Section 26 and shall monitor the new elements appearing

during the commission of such crimes.

(3) As a result of its analysing-assessing activity, the authority operating as the financial intelligence unit shall disseminate information according to Subsection (1) of Section 26.

(4) Pursuant to Subsection (1) of Section 29, the authority operating as the financial intelligence unit shall keep statistics on the combat against money laundering and terrorist financing.

Statistics

| Year | STRs received | Dissemination (STRs) |
|------|---------------|----------------------|
| 2011 | 6776 | 2711 |
| 2012 | 8304 | 2828 |
| 2013 | 12885 | 3290 |

Text of issue for follow-up:

10. The Working Group will follow up on the issues below as case law and practice develop:

- (h) the measures taken by Hungary to make MLA available to all Parties to the Convention in cases involving administrative or civil proceedings against legal persons for foreign bribery [Convention Article 9(1); Phase 2 recommendation 3(c)];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

In our approach, the Convention alone is a sufficient base to an MLA request and such request from any Party would be accepted and executed. The means of execution of the request depend on the measure requested.

Text of issue for follow-up:

10. The Working Group will follow up on the issues below as case law and practice develop:

- (i) the implementation of the new whistleblower protection provisions [2009 Recommendation X.C]; and

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

See the answer to recommendation 8/b.

Text of issue for follow-up:

10. The Working Group will follow up on the issues below as case law and practice develop:
- (j) the effectiveness of the new requirement under Governmental Decree No. 310/2011 for contracting authorities to examine criminal records for individuals and the company register for companies.

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

The Government Decree 310/2011 (23 December) on the method of certification of suitability and verification of the non-existence of the grounds for exclusion as well as the definition of public procurement technical specifications in contract award procedures entered into force on 1st January 2012. Since then the Public Procurement Authority (PPA) has published two guidelines in co-operation with the Ministry of National Development (MND) to help contracting authorities interpret the rules of Gov. Decree 310/2011 correctly.

The guidelines are available through the following links in Hungarian, English and German as well.
http://kozbeszerzes.hu/adatbazis/mutat/tajekoztato/portal_316328/
http://kozbeszerzes.hu/adatbazis/mutat/tajekoztato/portal_316327/
http://kozbeszerzes.hu/data/documents/2013/01/03/Guideline_2_grounds_for_exclusion_EU.pdf
http://kozbeszerzes.hu/data/documents/2013/01/03/Guideline_3_grounds_for_exclusion_Hungary.pdf
http://kozbeszerzes.hu/data/documents/2013/01/03/Anleitung_2_Einzureichenden_BestAtigungen_Erklarungen_Registern_und_Angaben_EU_EW.pdf
http://kozbeszerzes.hu/data/documents/2013/01/03/Anleitung_3_Einzureichenden_BestAtigungen_Erklarungen_Registern_und_Angaben_Ungarn.pdf

From a practical point of view, the contracting authorities may check if a person or company is excluded generally from public procurements in a publicly accessible database operated by the PPA on its website. Also, the publicly available online company register provides information on persons disqualified from company management.

Other measures have also been taken in order to ensure that contracting authorities undertake actions against companies convicted of bribery of foreign public officials and other unlawful activities.

In 2011 a new monitoring system has been established by Gov. Decree 46/2011 (25 March) on the centralized monitoring and authorization of public procurement procedures within the institutional framework of MND to monitor and authorize public procurement procedures financed by domestic budgetary resources. The scope of the Decree covers all public bodies and organs falling under the direction and supervision of the Government, furthermore state-owned companies. Procurements financed from Union resources fall outside of the scope of this monitoring system; however these are strictly controlled by the EU's auditors.

The monitoring activity aims to generate budgetary savings and to develop good practices in public procurement procedures. The MND exercises its controlling role at several stages of the procedure, and before a public contract is awarded, the approval of the MND is needed. One of the main focuses of the monitoring is the appropriate application of the exclusion grounds. Supervisors of MND double-check the contracting authorities' decisions (mainly regarding exclusions and compliance with selection and award

criteria) in public procurement procedures.

From a practical point of view, the unit within the MND exercising the supervisory role set out in the Gov. Decree 46/2011 controls in average 2500-3000 public procurements a year. They check the documents, submitted by the tenderers, including the databases mentioned above (PPA database, company register). According to the unit the approval was never denied based on the wrong application of the exclusion grounds related to criminal records by the contracting authorities.

**ANNEX 1: LIST OF TRAININGS REGARDING CORRUPTION FOR PROSECUTORS
(BACKGROUND TO REC. 2D)**

During 2012-2013 the following trainings concerning corruption has been provided to prosecutors:

- 1.** 16-18 May 2012. Training for prosecutors involved in investigations of corruption crimes with special regard to cross-border crimes and international co-operation
Participants: 47 investigating prosecutors
- 2.** 17-20 September 2012. Meeting of deputy chief prosecutors and heads of units responsible for criminal law field: discussion on the practical problems of investigating and prosecuting corruption cases
Participants: 52 deputy chief prosecutors, heads of units
- 3.** 25-26 October 2012. Presentation at the Conference for prosecutors (III. Section): dr. Alexandra Dobos: Corruption crimes in connection with the European border control, especially regarding the Hungarian-Ukrainian border; dr. Gábor Ruff: Difficulties investigating corruption crimes
Participants: 19 prosecutors
- 4.** 30 September - 4 October 2013: Meeting of deputy chief prosecutors, presentations: Actual problems of the serious crime cases; Organized crime
Participants: 33 deputy chief prosecutors, heads of units
- 5.** Between 3 March 2014 – 15 April 2014: Practical training for investigating prosecutors on applying investigative measures and solving issues in order to gain admissible evidence
Participants: 177 prosecutors

ANNEX 2: PARLIAMENTARY IMMUNITY CASES 2010-2013 (BACKGROUND TO REC. 3B)



Information and Document Management Department
Information and Methodology Unit

13.01.2014.

Parliamentary immunity cases 2010-2013

| No. | Number of parliamentary document | Name of MP | authority requested | Case | | Proposal of the committee | Resolution of the Parliament |
|--------------|----------------------------------|-----------------------|---------------------|---------------------|---------------------------------|---------------------------|------------------------------|
| | | | | subject | type | | |
| 2010. | | | | | | | |
| 1. | H/343 | Mihály Babák (Fidesz) | Court | Private prosecution | Defamation, libel (misdemeanor) | sustain | sustain |

| | | | | | | | |
|-----|--------------|----------------------------------|--------------|---------------------------|--|----------------|----------------|
| 2. | H/344 | Csaba Horváth (MSZP) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 3. | H/345 | Zsolt Németh (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 4. | H/346 | István Dr. Simicskó (KDNP) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 5. | <i>H/347</i> | <i>Tamás Gergő Samu (Jobbik)</i> | <i>Court</i> | <i>Public prosecution</i> | <i>armed and grouped committed violence against office holder (felony)</i> | <i>suspend</i> | <i>suspend</i> |
| 6. | H/605 | Tamás Meggyes (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 7. | H/606 | József Szekó (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 8. | H/607 | József Szekó (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 9. | H/608 | József Szekó (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 10. | H/694 | István Dr. Balsai (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 11. | H/695 | Tibor Dr. Navracsics (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 12. | H/696 | Attila Gelencsér (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |

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|-----|--------|------------------------------|-------|---------------------|--------------------------|---------|---------|
| 13. | H/697 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 14. | H/698 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 15. | H/699 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 16. | H/781 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 17. | H/782 | Zoltán Dr. Illés (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 18. | H/783 | Tamás Meggyes (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 19. | H/785 | Tamás Meggyes (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 20. | H/786 | Róbert Dr. Répássy (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 21. | H/787 | Balázs Dr. Lenhardt (Jobbik) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 22. | H/905 | László Dr. Varga (MSZP) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 23. | H/906 | Oszkár Seszták (KDNP) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 24. | H/1158 | Tamás Meggyes (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |

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|-----|--------|--|-------|------------------------|------------------------------------|----------------|----------------|
| 25. | H/1159 | Oszkár Molnár (independent) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 26. | H/1160 | Szilárd Németh (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 27. | H/1161 | Szilárd Németh (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 28. | H/1162 | István Nyakó (MSZP) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 29. | H/1163 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 30. | H/1164 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 31. | H/1165 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 32. | H/1359 | Ildikó Lendvai (MSZP) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 33. | H/1360 | Monika Rónaszékiné Keresztes (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 34. | H/1554 | András Dr. Schiffer (LMP) | Court | Private prosecution | Defamation, libel (misdemeanor) | sustain | sustain |
| 35. | H/1851 | Lénárd Borbély (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 36. | H/1997 | <i>Előd Novák (Jobbik)</i> | Court | Private prosecution | Defamation (misdemeanor) | <i>suspend</i> | <i>suspend</i> |

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|--------------|---------------|----------------------------------|---------------------------|---------------------------|---------------------------------|----------------|----------------|
| 37. | H/1998 | Gyula Dr. Budai (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 38. | H/1999 | Tibor Dr. Szanyi (MSZP) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 2011. | | | | | | | |
| 1. | H/2311 | Sándor Arnóth (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 2. | H/2312 | István Dr. György (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 3. | H/2313 | Tamás Meggyes (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 4. | H/2552 | Lénárd Borbély (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 5. | H/2553 | György Dr. Budai (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 6. | H/2554 | Attila Kiss (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 7. | H/2555 | Barnabás Tamás (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 8. | H/2811 | Tamás Meggyes (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 9. | H/2812 | Gábor Dr. Staudt (Jobbik) | Prosecutor General | Public prosecution | Defamation (misdemeanor) | sustain | suspend |
| 10. | H/3159 | Gyula Dr. Budai (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 11. | H/3160 | Attila Gelencsér (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |

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|------------|---------------|-------------------------------------|---------------------------|----------------------------|--|----------------|----------------|
| 12. | H/3161 | Sándor Káli (MSZP) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 13. | H/3162 | Tamás Meggyes (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 14. | H/3627 | György Gyula Zagyva (Jobbik) | Supreme Prosecutor | Public prosecution | Molestation (misdemeanor) | suspend | suspend |
| 15. | H/3628 | János Bencsik (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 16. | H/3629 | Csaba Schmidt (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 17. | H/3630 | Tamás Meggyes (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 18. | H/3631 | Tamás Meggyes (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 19. | H/3632 | Szilárd Németh (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 20. | H/3633 | <i>Gergely Rubi (Jobbik)</i> | Court | <i>Private prosecution</i> | Libel (misdemeanor) | <i>sustain</i> | <i>suspend</i> |
| 21. | H/3634 | <i>Gergely Rubi (Jobbik)</i> | Court | <i>Private prosecution</i> | Defamation (misdemeanor) | <i>sustain</i> | <i>suspend</i> |
| 22. | H/3635 | Oszkár Seszták (KDNP) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 23. | H/4027 | Ferenc Gyurcsány (MSZP) | Prosecutor General | Public prosecution | Abuse of authority (felony) | suspend | suspend |
| 24. | H/4028 | Sándor Káli (MSZP) | Court | Private prosecution | Misappropriation that caused more pecuniary loss | sustain | sustain |

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|--------------|---------------|--|---------------------------|---------------------------|--|----------------|----------------|
| 25. | H/4384 | Gyula Dr. Budai (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 26. | H/4385 | Tamás Meggyes (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 27. | H/4386 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 28. | H/4387 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 29. | H/4734 | Zsolt Németh (Jobbik) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 30. | H/4735 | János Dr. Lázár (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 31. | H/4736 | Róbert Dr. Répássy (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 32. | H/4737 | József Szekó (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 33. | H/5316 | János Pócs (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 34. | H/5318 | Ferenc Juhász (MSZP) | Prosecutor General | Public prosecution | Misappropriation that caused more pecuniary loss (felony) | suspend | suspend |
| 35. | H/5336 | Zsolt Dr. Horváth (Veszprém) (Fidesz) | Prosecutor General | Public prosecution | Pettifoggery (misdemeanor) | suspend | suspend |
| 2012. | | | | | | | |

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|-----------|---------------|----------------------------------|---------------------------|---------------------------|---|----------------|----------------|
| 1. | H/5861 | Antal Rogán (Fidesz) | court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 2. | H/5862 | László Tasó (Fidesz) | court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 3. | H/7198 | Attila Dr. Tilki (Fidesz) | Prosecutor General | public prosecution | Driving under the influence of alcohol (misdemeanor) | suspend | suspend |
| 4. | H/7199 | János Pócs (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 5. | H/7200 | Tibor Dr. Szanyi (MSZP) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 6. | H/7201 | Gábor Dr. Staudt (Jobbik) | Court | Private prosecution | Defamation (misdemeanor) | sustain | suspend |
| 7. | H/7745 | Balázs Dr. Lenhardt (Jobbik) | Prosecutor General | Contravention | Public Nuisance (contravention) | sustain | suspend |
| 8. | H/7746 | Ádám Mirkóczki (Jobbik) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 9. | H/7747 | Gyula Dr. Budai (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 10. | H/8831 | Zoltán Balog (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 11. | H/9140 | Zoltán Balog (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 12. | H/9141 | Zoltán Balog (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 13. | H/9142 | Zoltán Balog (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |

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|--------------|----------------|---------------------------------|---------------------------|---------------------------|---|----------------|----------------|
| 14. | H/9385 | János Pócs (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 15. | H/9386 | Miklós Dr. Simon (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 2013. | | | | | | | |
| 1. | H/10017 | Előd Novák (Jobbik) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 2. | H/10018 | Viktor Orbán | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 3. | H/10019 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 4. | H/10498 | Ádám Mirkóczki (Jobbik) | Prosecutor General | public prosecution | Driving under the influence of alcohol (misdemeanor) | suspend | suspend |
| 5. | H/10499 | Gábor Simon (MSZP) | Prosecutor General | public prosecution | continuously committed fraud causes major damage b. forgery of private document (felony) | suspend | suspend |
| 6. | H/10500 | István dr. Tiba (Fidesz) | Prosecutor General | public prosecution | negligence causing public highway accident (misdemeanor) | suspend | suspend |
| 7. | H/10811 | Zoltán Balog (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 8. | H/10812 | Zoltán Balog (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |

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|-----|---------|----------------------------------|-------|---------------------|--------------------------|---------|---------|
| 9. | H/10813 | Zoltán Balog (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 10. | H/10814 | Zoltán Balog (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 11. | H/10815 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 12. | H/10816 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 13. | H/10817 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 14. | H/11052 | Pierre Dr. Daher (Fidesz) | Court | Private prosecution | Assault (misdemeanor) | sustain | sustain |
| 15. | H/11436 | Dávid Dr. Dorosz (independent) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 16. | H/11437 | Benedek Jávör (independent) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 17. | H/11438 | Gergely Karácsony (independent) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 18. | H/11439 | Gábor Scheiring (independent) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 19. | H/11440 | Rebeka Szabó (independent) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 20. | H/11441 | Bernadett Dr. Szél (independent) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 21. | H/11442 | László Szilágyi (independent) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 22. | H/11443 | Gábor Vágó (independent) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |

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|------------|----------------|--|---------------------------|---------------------------|--|----------------|----------------|
| 23. | H/11444 | Gergely Rubi (Jobbik) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 24. | H/11445 | László Tasó (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 25. | H/11446 | Zsolt Csenger-Zalán (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 26. | H/11541 | Balázs Dr. Lenhardt (independent) | Prosecutor General | public prosecution | Public Nuisance (felony) | suspend | suspend |
| 27. | H/11542 | László Sebestyén (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 28. | H/11543 | Gabriella Selmeczi (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 29. | H/11544 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 30. | H/12199 | Balog József (independent) | Prosecutor General | public prosecution | Assault (felony) | suspend | suspend |
| 31. | H/12200 | György Gyula Zagyva (Jobbik) | Court | Private prosecution | Libel (misdemeanor) | suspend | suspend |
| 32. | H/12666 | Gábor Ferenczi (Jobbik) | Prosecutor General | public prosecution | Negligence causing fatal public highway accident (delict) | suspend | suspend |
| 33. | H/12667 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 34. | H/12668 | József Szekó (Fidesz) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |

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|------------|----------------|-----------------------------------|-------------------------------|-------------------------------|--------------------------------------|----------------|----------------|
| 35. | H/12669 | György Dr. Rubovszky (KDNP) | Court | Private prosecution | Libel (misdemeanor) | sustain | sustain |
| 36. | H/13031 | Gyula Dr. Budai (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |
| 37. | H/13032 | Tamás Meggyes (Fidesz) | Prosecutor General | public prosecution | Misappropriation (felony) | suspend | suspend |
| 38. | H/13033 | György Simonka (Fidesz) | Court | Private prosecution | Defamation (misdemeanor) | sustain | sustain |

FIDESZ: FIDESZ Hungarian Civic Union
MSZP: Hungarian Socialist Party
KDNP: Christian-Democratic People's Party
Jobbik: The Movement for a Better Hungary
LMP: Politics Can be Different
[Non-official translation]

ANNEX 3: NUMBER OF PARLIAMENTARY IMMUNITY CASES BY SUBJECT (BACKGROUND TO REC. 3B)



Information and Document Management Department
Information and Methodology Unit

Close: 13. 01. 2014.

Number of the Parliamentary immunity cases by subject

| | Private Prosecution | | Public Prosecution | | Contravention | |
|-------------------------------------|--|----------|--------------------|-----------|---------------|----------|
| | the parliamentary immunity in the case | | | | | |
| | Sustain | Suspend | Sustain | Suspend | Sustain | Suspend |
| 2010 | 36 | 1 | 0 | 1 | 0 | 0 |
| 2011 | 28 | 2 | 0 | 5 | 0 | 0 |
| 2012 | 12 | 1 | 0 | 1 | 0 | 1 |
| 2013 | 30 | 1 | 0 | 7 | 0 | 0 |
| Between 2010-2013 altogether | 106 | 5 | 0 | 14 | 0 | 1 |

ANNEX 4: INFORMATION REGARDING DATA ON INVESTIGATIONS (BACKGROUND TO REC. 3D)

The Unified System of Criminal Statistics of the Investigative Authorities and of Public Prosecution (hereinafter the „ENyÜBS”) contains data about criminal offences, crime reports, ongoing investigations, number of accused persons and prosecutions. Regarding the number of sentenced persons, the separate system of tribunal statistics provides data by recording the final judgments, it means Hungary do not have statistical data about non-final convictions (ongoing cases).

The ENyÜBS also collects further data about victims, which includes gender, age, citizenship, occupation and reference data on possible intoxication/drug influence.

Direct involvement of Courts and the Prison service to the ENyÜBS-System is currently in progress. Up until then, the criminal statistics is totally unified from the denunciation until the accusation, and it forms a system covering the data of the cases. Following to the accusation, during the judicial period (trial phase) yet a separate judicial statistical system provides the data, limited to the factual data connected to the legally binding verdict (no further info on details of the given case).

Following the involvement of the Courts to the ENyÜBS, according to the developing projects – partly because of our endeavor to fulfill the obligation to provide data for the European Union –, the scale of the data is going to broaden, in addition, the data connected with the trial phase are going to also be completed with forfeiture and forfeiture of assets.

At present, before the court proceedings, the criminal statistics of the investigative authorities and of public prosecution has data about (without entirety):

- the time when the offence was committed, if the offender was a public official (if the offender commits bribery was a public official or not can only be determined based on this), the offender’s citizenship, marital status, educational level, occupation, residence (municipality), if he committed the offence by himself, if he had criminal record and the number of offences committed by him,
- number of initialed investigations, completed investigations, cases sent to prosecution by the investigative authorities, prosecutions and defendants (information about the number of the current criminal proceedings is not part of the statistics, although can be found among caseload data),
- number of offences time-barred before the proceedings (the number of case closures due to reaching the limitation period),
- number of investigations preceding the judicial phase which do not exceed 1 year,
- number of investigations preceding the judicial phase with the duration of 1-3 years,
- number of investigations preceding the judicial phase which exceed 3 years.

In the judicial period, the courts dispose of the following data with regard to the corruption from the year 2010-2013:

- number of binding verdicts (number of binding convicts)

- number of binding acquittals (number of orders of discontinuance separately with reasons)
- number of binding (executable) custodial sentences
- number of binding custodial sentences suspended in execution (in part or in full).

**ANNEX 5: ACT CLXV OF 2013 ON COMPLAINTS AND PUBLIC INTEREST DISCLOSURES
(BACKGROUND TO REC. 8B)**

The National Assembly, committed to increasing public confidence in the functioning of public bodies, recognising the importance of complaints and public interest disclosures in improving the functioning of the state, having regard to the international obligations of Hungary undertaken in connection with action against corruption, as well as the recommendations of international organisations, recognising the efforts made by whistleblowers in order to promote public interests, and ensuring the measures needed for the fullest protection of whistleblowers, has adopted the following act:

1. Complaint and public interest disclosure

Article 1

(1) Public bodies and local government bodies shall manage complaints and public interest disclosures pursuant to this act.

(2) A complaint is a request for putting an end to a violation of individual rights or interests the fulfilment of which does not fall under the scope of any other proceedings, in particular judicial or administrative proceedings. A complaint may also contain a proposal.

(3) A public interest disclosure calls attention to a circumstance the remedying or discontinuation of which is in the interest of the community or the whole society. A public interest disclosure may also contain a proposal.

(4) Anybody may make a complaint or a public interest disclosure to the body entitled to proceed in matters relating to complaints and public interest disclosures (hereinafter referred to as “body entitled to proceed”). When a public interest disclosure is made orally, the body entitled to proceed shall put it in writing and give a copy thereof to the whistleblower.

(5) If a complaint or a public interest disclosure is made to any entity other than the body entitled to proceed, the complaint or public interest disclosure shall be referred to the body entitled to proceed within eight days of receipt. The referral shall be notified simultaneously to the complainer or whistleblower. Where a complaint or a public interest disclosure contains a proposal for new legislation or the amendment of existing legislation, it shall also be forwarded to the relevant person or body having legislative power.

Article 2

(1) Unless otherwise provided by law, complaints and public interest disclosures shall be assessed within thirty days after receipt by the body entitled to proceed.

(2) If the investigation underlying the assessment is expected to last longer than thirty days, the complainer or the whistleblower shall be informed thereof, specifying simultaneously the expected date by which the complaint or the public interest disclosure will be dealt with, as well as the reasons for the prolonged proceedings.

(3) The body entitled to proceed shall hear the complainer or the whistleblower, if the content of the complaint or the public interest disclosure makes it necessary.

(4) Upon completing the investigation, the body entitled to proceed shall immediately inform the complainer or the whistleblower about the action taken or inaction, as appropriate, except classified information or information constituting business, economic or other secret pursuant to the law, giving reasons for the action taken or the inaction.

(5) Such information is not required to be given in writing, if the complainer or the whistleblower has already been informed orally that the complaint or the public interest disclosure has been dealt with, and the complainer or the whistleblower has acknowledged that information.

(6) The investigation of a repeated complaint or public interest disclosure made by the same complainer or whistleblower the substance of which is the same as that of the previous one and of a complaint or public interest disclosure made by an unidentifiable person may be omitted.

(7) In addition to the cases referred to in paragraph (6), the investigation of a complaint may be omitted, if the complainer submits a complaint more than six months after becoming aware of the activity or failure complained about. Complaints submitted more than one year after the occurrence of the activity or failure complained about shall be rejected without an investigation as to its substance.

Article 3

(1) When a complaint or a public interest disclosure proves to be well-founded, the following shall be ensured:

a) the lawful situation or the situation which meets the public interest is restored, and all otherwise necessary actions are taken;

b) the reasons behind the detected deficiencies are eliminated;

c) the caused injury is remedied; and

d) prosecution is initiated, if warranted.

(2) Except in the cases referred to in paragraph (4), complainers and whistleblowers shall not suffer any disadvantage for making a complaint or a public interest disclosure.

(3) Except in the cases referred to in paragraph (4), the personal data of a complainer or a whistleblower shall not be disclosed to any recipient other than the body competent to carry out proceedings initiated on the basis of the respective complaint or public interest disclosure, provided that such body is entitled to process such data pursuant to the law, or the complainer or whistleblower has given explicit consent to the transfer of his or her data. Without such explicit consent, the personal data of the complainer or the whistleblower shall not be made public.

(4) In cases where it becomes clear that a complainer or a whistleblower has disclosed untrue information of crucial importance in bad faith, and

a) it gives rise to an indication that a crime or an offence has been committed, the personal data of the complainer or the whistleblower shall be disclosed to the body or person entitled to carry out proceedings;

b) there is good reason to consider it likely that the complainer or the whistleblower caused unlawful damage or other harm to the rights of others, his or her data shall be disclosed upon the request of the body or person entitled to initiate or carry out proceedings.

2. Protected electronic system for public interest disclosures

Article 4

(1) Public interest disclosures may also be made through a protected electronic system for public interest disclosures (hereinafter referred to as “electronic system”). The commissioner for fundamental rights shall ensure that an electronic system for making and recording public interest disclosures is operated.

(2) The personal data processed in the electronic system shall not be used for any purpose other than the investigation of the relevant public interest disclosure and in contact with the whistleblower.

(3) Unless otherwise provided in this chapter, the disclosure of personal data processed in the electronic system shall be governed by Article 3(3) and (4).

(4) The identification data stored in the electronic system shall include the name and address of the whistleblower.

Article 5

(1) The electronic system shall assign a unique identification number to each public interest disclosure received.

(2) The commissioner for fundamental rights shall on the basis of the unique identification number make available to all on the Internet a brief summary of the substance, excluding personal and specific institutional data, and the status of each public interest disclosure made through the electronic system.

When a case has been closed, the name of the entity involved in the public interest disclosure and, if different, the body entitled to proceed shall also be made available.

(3) The electronic system shall be designed so as to enable contact with the whistleblower on the basis of the unique identification number and the password entered by the whistleblower.

(4) The electronic system shall be designed so as to enable the whistleblower to print and record in electronic form the entire content of the public interest disclosure.

Article 6

(1) Whistleblowers making a public interest disclosure to the commissioner for fundamental rights through the electronic system may request that their personal data are only made available to the commissioner for fundamental rights and the office of the commissioner for fundamental rights.

(2) In the case referred to in paragraph (1), the commissioner for fundamental rights shall abridge the public interest disclosure in order to ensure that it does not contain any data that may enable the identification of the whistleblower.

Article 7

Each public interest disclosure received through the electronic system or, in the case referred to in Article 6(1), an abridged version thereof, shall be forwarded to the body entitled to proceed.

Article 8

The body entitled to proceed shall manage the public interest disclosure in the same manner as defined in chapter 1, except that:

a) the body entitled to proceed shall record in the electronic system information about its actions or, where appropriate, information about omitting the investigation of the public interest disclosure pursuant to Article 2(6);

b) in the case referred to in Article 6(1):

ba) the whistleblower shall not be heard and informed orally;

bb) the investigation of a public interest disclosure shall not be omitted on the grounds that the whistleblower cannot be identified by the body entitled to proceed;

bc) contact with the whistleblower shall only be kept through the electronic system;

bd) the body entitled to proceed may contact the whistleblower through the office of the commissioner for fundamental rights and may initiate contact with the whistleblower without revealing the identity of the whistleblower.

Article 9

When a public interest disclosure concerns a natural person, the personal data of the whistleblower shall not be made available to any person seeking information in order to ensure the exercise of the rights of the natural person concerned to information about his or her personal data pursuant Article 15(1) of Act CXII of 2011 on the Right of Informational Self-determination and Freedom of Information (hereinafter referred to as "Information Act").

Article 10

The data recorded in the electronic system about public interest disclosures, the investigations carried out on the basis thereof and the actions taken shall be retained for a period of five years after the end of the last investigative act or measure and shall be deleted when that period has elapsed.

3. Protection of whistleblowers

Article 11

With the exception of the actions referred to in Article 3(4), any action taken as a result of a public interest disclosure which may cause disadvantage to the whistleblower shall be unlawful even if it would otherwise be lawful.

Article 12

(1) A whistleblower shall be at risk, except in the case referred to in Article 3(4), if the disadvantages threatening him or her as a result of the public interest disclosure he or she made are likely to seriously endanger his or her life circumstances, except in the case referred to in Article 3(4).

(2) A whistleblower who is a natural person shall be entitled to aids provided to ensure the protection of whistleblowers, as defined in the relevant law, if he or she is likely to be at risk.

(3) The state shall provide to whistleblowers the aids defined in Act LXXX of 2003 on Legal Aid, under the conditions defined in the same act.

4. Whistleblowing systems maintained by employers

Article 13

Employers and the owners thereof operating in the form of a company (hereinafter jointly referred to as “employer organisation”) may define rules of conduct applicable to their employees under the conditions defined in Article 9(2) of Act I of 2012 on the Labour Code in order to protect public interest or overriding private interest, which rules together with a description of the related procedures must be published by employers so as to be available to anyone.

Article 14

(1) Employer organisations may set up whistleblowing systems for reporting violations of the law and the rules of conduct referred to in Article 13 (hereinafter referred to “whistleblowing system”), in which they may process the personal data of whistleblowers and of persons affected by whistleblowing, as disclosed in the whistleblower reports, for the purpose of investigating whistleblower reports and may transfer such data to external organisations involved in the investigation thereof. Controllers shall notify the data processing operations relating to the whistleblowing system to the data protection register maintained by the National Authority for Data Protection and the Freedom of Information. Article 65(3)(a) of the Information Act shall not apply to the registration of data processing operations relating to the whistleblowing system into the data protection register.

(2) Employers shall publish on their websites detailed information in Hungarian about the operation of their whistleblowing systems and their procedures relating to whistleblowing.

(3) The processing of special data in a whistleblowing system is prohibited.

(4) Data concerning third parties which are not needed for the investigation of whistleblower reports and cannot be processed under this act shall be deleted immediately from the whistleblowing system.

(5) The processing of personal data in a whistleblowing system shall be governed by Article 3(3) and, with respect to the data of whistleblowers, Article 3(4).

(6) Reports to such whistleblowing systems may be made by the employees of the employer, persons having a contractual relationship with the employer organisation and persons having a legitimate interest in making a whistleblower report or in remedying the conduct concerned. When making a whistleblower report, the whistleblower shall disclose his or her name and address, and a whistleblower who is a legal person shall disclose its registered address and the name of the legal representative of the whistleblower, and it shall declare that the whistleblower report is made in good faith about circumstances it is either aware of or has a good reason to believe that they are real. Whistleblowers shall be reminded of the consequences of whistleblowing in bad faith, the rules governing the investigation of whistleblower reports, and the fact that the identity of the whistleblower shall be treated confidentially in all stages of the

investigation. Whistleblowers shall be informed that the investigation of a whistleblower report made by an unidentifiable person may be omitted.

Article 15

(1) Employers shall investigate all whistleblower reports and shall inform the whistleblower of the outcome of the investigation and the action taken. The investigation of a repeated whistleblower report made by the same whistleblower the substance of which is the same as that of the previous one and of a whistleblower report made more than six months after becoming aware of the activity or failure complained about or a whistleblower report made anonymously or by an unidentifiable whistleblower may be omitted. If the prejudice to public interest or overriding private interest is not proportionate to the limitation of the rights of the person concerned, the employer may omit the investigation of the whistleblower report.

(2) Whistleblowing systems shall be designed so as to ensure that the whistleblower can be identified by nobody but those who investigate the whistleblower report. Until the investigation is closed or formal prosecution is initiated as a result of the investigation, those who investigate the whistleblower report shall keep secret all information about the substance of the whistleblower report and the persons concerned and, with the exception of informing the person concerned, shall not share such information with any other organisational unit or employee of the employer organisation.

(3) When opening an investigation, the person concerned shall be informed in detail about the whistleblower report concerning him or her, as well as his or her rights pursuant to the Information Act and the rules governing the processing of his or her data. Observing the requirement of fair proceedings, the person concerned shall be given an opportunity to state his or her views on the whistleblower report and to provide supporting evidence either directly or through a legal representative. In exceptional and justified cases, the person concerned may be informed later, if immediate information would jeopardise the investigation of the whistleblower report.

Article 16

(1) Whistleblower reports may be received or investigated by a lawyer engaged for the protection of whistleblowers. Data may be transferred to a foreign country, if the data controller or the data processor undertakes a contractual obligation to comply with the rules of the Hungarian law concerning whistleblowing, and an adequate level of protection for the personal data transferred or exported for processing by a data processor in a third country is ensured in accordance with Article 8(2) of the Information Act.

(2) Employers shall investigate whistleblower reports as soon as possible under the given circumstances. Whistleblower reports shall be investigated within 30 days after receipt, which time limit shall only be subject to derogation in cases where it is highly justified, provided that the whistleblower is simultaneously informed, except where the whistleblower report was made anonymously or by an unidentifiable whistleblower. The investigation shall not last longer than 3 months.

(3) If the investigation of the conduct reported by the whistleblower warrants the initiation of criminal proceedings, arrangements shall be taken to ensure that the case is reported to the police.

(4) If the investigation reveals that the conduct reported by the whistleblower is not a crime but it constitutes a breach of the rules of conduct defined by the employer organisation, the employer may impose sanctions on the employee concerned in accordance with the rules governing the employment relationship.

(5) If the investigation reveals that the whistleblower report is unfounded or that no further action is necessary, the data relating to the whistleblower report shall be deleted within 60 days after the end of the investigation.

(6) In the event that any action is taken on the basis of the investigation, including action due to legal proceedings or disciplinary action launched against the whistleblower, the data relating to the whistleblower report may be processed in the employer's whistleblowing system until the closure of the proceedings launched on the basis of the whistleblower report becomes final.

5. Lawyer for the protection of whistleblowers

Article 17

(1) A legal person that is not a public body or a local government body may conclude an engagement contract for non-employee services with a lawyer for receiving and managing whistleblower reports relating to the activities of that legal person (hereinafter referred to as “lawyer for the protection of whistleblowers”). For the purposes of the activities of the lawyer for the protection of whistleblowers, all indications of circumstances the remedying or discontinuation of which are in the legal or lawful business interest of the legal person or contribute to putting an end to an infringement or to a threat to public security, public health or the environment occurring in relation to the activities of the legal person shall be whistleblower reports.

(2) The engagement contract referred to in paragraph (1) shall not be concluded with a legal person with whom the lawyer for the protection of whistleblowers has or had in the five-year period preceding the conclusion of the engagement contract any other engagement or employment relationship or other legal relationship involving work obligations. When a whistleblower report concerns an act or omission by a senior executive of the contracting party, the lawyer for the protection of whistleblowers shall immediately inform about the whistleblower report the supervisory board and auditor of the whistleblower and the supreme decision making body of or the entity exercising ownership rights over the contracting party.

(3) The lawyer for the protection of whistleblowers shall not request or accept from any entity other than the contracting party any remuneration or other benefit associated with these activities.

(4) The lawyer engaged for the protection of whistleblowers shall within 15 days notify in writing the conclusion of the engagement contract to the bar of the district concerned. The name, address, telephone number, e-mail address and website details of the lawyer for the protection of whistleblowers shall be published on the website of the bar of the district concerned.

Article 18

(1) Under the engagement contract referred to in Article 17(1), the lawyer for the protection of whistleblowers:

- a)* shall receive whistleblower reports relating to the activities of the contracting party;
- b)* shall provide legal advice to whistleblowers on whistleblowing;
- c)* shall keep contact with whistleblowers and may request information and clarification, where necessary, for the investigation of whistleblower reports;
- d)* may, according to the instructions of the contracting party, make a contribution to the investigations carried out on the basis of whistleblower reports;
- e)* may, upon request, inform whistleblowers in writing about the events relating to their respective whistleblower reports, in particular the outcome of the investigation launched on the basis of the whistleblower report, the action taken by the contracting legal person, or the rejection of investigation.

(2) The lawyer for the protection of whistleblowers shall forward whistleblower reports to the contracting legal person but shall have a confidentiality obligation with respect to the data enabling the identification of the whistleblower and therefore shall only send to the contracting party an abridged version of each whistleblower report, which shall not contain any information that would enable the identification of the whistleblower, unless the whistleblower concerned has given a prior waiver of confidentiality in writing.

(3) The lawyer for the protection of whistleblowers shall ensure that the whistleblower reports received in such capacity and the associated files are managed and recorded separately from other activities.

(4) The engagement contract of the lawyer for the protection of whistleblowers shall not be terminated without giving reasons. Lawful proceedings carried out by the lawyer for the protection of whistleblowers cannot lead to termination by the contracting party or the refusal of the payment of the fee due to the lawyer for the protection of whistleblowers by the contracting party.

6. Final provisions

Article 19

The minister responsible for justice shall be empowered to adopt a decree on the aids available to whistleblowers at risk and the rules governing the disbursement thereof.

Article 20

This act shall enter into force on 1 January 2014.

Article 21

(1) The following chapter 11/A shall be added to Act CXI of 2011 on the Commissioner for Fundamental Rights (hereinafter referred to as “Act on the Commissioner for Fundamental Rights”):

“11/A. Investigation of public interest disclosures

Article 38/A

The commissioner for fundamental rights shall monitor the practice of managing public interest disclosures within the meaning of the Act on Complaints and Public Interest Disclosures by the authorities referred to in Article 18(1)(a) to (k) and, upon request, whether certain public interest disclosures are dealt with appropriately.

Article 38/B

(1) The commissioner for fundamental rights shall ensure that an electronic system for making and recording public interest disclosures (hereinafter referred to as “electronic system”), as referred to in the Act on Complaints and Public Interest Disclosure, is operated.

(2) To the extent needed for the performance of the duties of the commissioner for fundamental rights, the authorities referred to in Article 18(1)(a) to (k) shall report data relating to public interest disclosures made through the electronic system and the investigation thereof.

Article 38/C

The whistleblower may submit a petition to the commissioner for fundamental rights in order to seek remedy for the alleged abuse, if:

a) the body entitled to proceed referred to in the Act on Complaints and Public Interest Disclosures (hereinafter referred to as “body entitled to proceed”) declares the public interest disclosure to be unfounded;

b) the whistleblower disagrees with the outcome of the investigation,

c) the whistleblower is of the view that the body entitled to proceed failed to fully investigate the public interest disclosure.

Article 38/D

The personnel of the Office performing tasks associated with the direct investigation of public interest disclosures shall perform such tasks in positions subject to national security control, holding personnel security clearance.”

(2) Article 40(2)(a) of the Act on the Commissioner for Fundamental Rights shall be replaced by the following:

(In the annual report, the commissioner for fundamental rights shall)

„a) describe his or her activities in the field of protecting fundamental rights, devoting specific chapters to the activities referred to in Article 1(2) and (3) and the activities relating to the investigation of public interest disclosures,”

Article 22

The following point (j) shall be added to Article 5(3) of Act XI of 1998 on Lawyers:

(In addition to those listed in paragraph (1), lawyers could perform the following activities:]

“j) activities of a lawyer for the protection of whistleblowers.”

Article 23

Article 29/A of Act CLIV of 1997 on Health shall be replaced by the following:

“Article 29/A

Concerning the healthcare services provided by healthcare service providers to patients, complaints within the meaning of the Act on Complaints and Public Interest Disclosures may be submitted to the healthcare administration body entitled to grant an operating licence to the healthcare service provider concerned.”

Article 24

Article 168(17) of Act LXXXVI of 2007 on Electricity shall be replaced by the following:

“(17) In the course of its proceedings, with respect to complaints and public interest disclosures, the Office shall act in accordance with the provisions of the Act on Complaints and Public Interest Disclosures, except that the time limit for assessment shall be three months.”

Article 25

In Article 10 of Act CXLIII of 2011 promulgating the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the provision enacting Article 40(2)(a) of the Act on the Commissioner for Fundamental Rights shall enter into force with the text “referred to in Article 2(6) and relating to the investigation of public interest disclosures” instead of the text “and referred to in Article 2(6)”.

Article 26

In Article 94/A of Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices, the text “Articles 141 to 143 of Act XXIX of 2004 Amending Certain Acts and Repealing and Enacting Certain Legal Provisions in Relation to Accession to the European Union” shall be replaced by “the provisions of the Act on Complaints and Public Interest Disclosure”.

Article 27

The following shall be repealed:

- a) the chapter “Public interest petitions, complaints and disclosures” and Articles 141 to 143 of Act XXIX of 2004 Amending Certain Acts and Repealing and Enacting Certain Legal Provisions in Relation to Accession to the European Union, and
- b) Act CLXIII of 2009 on Safeguarding Fair Proceedings and the Related Legislative Amendments.

ANNEX 6: CASE STUDIES TO DEMONSTRATE THE APPLICATION OF MONETARY SANCTIONS ((BACKGROUND TO FOLLOW-UP ISSUE 10E)

Whether, in practice, (i) both the bribe and the proceeds of the bribe are subject to seizure and confiscation or (ii) monetary sanctions of comparable effect are applicable [Convention, Article 3].

Case 1

A mayor of a town accepts bribe (200.000 HUF) from the CEO of a company in order to secure the win of the company on a tender concerning the modernization of the sewage works of the town. In exchange of the bribe the mayor assures the CEO to direct the tender in favour of the company, plus advises the CEO to rack up the costs of the task to gain additional benefit they should share later.

The mayor was found guilty by the court and was sentenced to: 2 years of imprisonment, 2 years of deprivation of civil rights, 200.000 HUF financial penalty, 200.000 HUF confiscation and the costs of the procedure. The sentence is final.

Case 2

X. acting as an official of a local government was responsible for issuing permits to build. Y. as a private person was asked by C., a CEO of a company to obtain the necessary permissions to build a new facility for the company. During the permission procedure X. hinted to Y. that in exchange of 500.000 HUF he could intervene and speed up the process. This offer was forwarded by Y. to C. in a form that X. is asking for 1.000.000 HUF to issue the permission. C. refused the offer but after contacting the police, he seemingly accepted it. After the application was reached in, C. gave 600.000 HUF to Y. claiming that he is ready to give the other 400.000 HUF if the permit was issued. Y. drove to the house of X. and handed over 500.000 HUF. They were caught on act.

X. was sentenced to: 2 years of imprisonment with 5 years suspension of the execution, 3 years of restraint of profession and 500.000 HUF financial penalties. Y. was sentenced to 2 years of imprisonment with 5 years suspension of the execution, and 250.000 HUF financial penalties. The sentence is final.

Case 3

M. foreign citizen during a check performed by the traffic police, in order to avoid being fined for a motoring offence, tried to give 10.000 HUF to the policemen with the words "You help me". The policemen refused the bribe and initiated the criminal procedure.

M. was sentenced to 10 months of imprisonment with 2 years suspension of the execution, and confiscation of the seized 10.000 HUF. The sentence is final.

ANNEX 7: FURTHER DETAILED INFORMATION ON TRAININGS

As a first step regarding the central Public Administration's anti-corruption training, the young persons included in the Hungarian Public Administration Scholarship Programme have already been attending corruption prevention training since August 2012. The new National Curriculum to take effect in the autumn of 2013 also includes information on anti-corruption actions, as a result of which the issue of corruption at the level of communities and the society as a whole will become an important component of ethics classes for 9 to 12 grade students. According to the Mission Statement of the National University of Public Service (NUPS), the institution is 'to provide the harmonized and planned supply training in the personnel of civil administration, law enforcement, defence and national security services besides the strengthening of vocation and expertise while placing the academic public service professional training on single institutional foundations', and 'to make the quality development of the public service personnel more efficient as the training centers of the corporations involved.'

1. The Ministry of Public Administration and Justice engaged the NUPS as consortium partner in the implementation of the SROP-1.1.21 project. As a result of this, the development of modern syllabuses and trainings makes it possible to renew the training structure of the university. On 22 February 2013 further training leading to a diploma entitling the holder to work as an integrity advisor postgraduate course was launched.

The objective is to train experts on public administration who – by adopting a strategic approach and becoming familiar with the operational and management system of the organs of public administration, acquiring organisational development technologies, HR management and the applicable legal, sociological and psychological aspects, and by coordination of any types of regulatory compliance tasks occurring in operation of public administration organisations – will be suitable to fulfil integrity advisory duties. The tasks of the participants include support for the strengthening of the integrity management system within the particular public administration organisation, assistance with the establishment of processes supporting the development of the organisation in conformity with its strategic goals, adopted principles and values in accordance with the applicable regulations; support for the spread of a work culture based on the principles of professional ethics and, as a result, reduction in and prevention of the risks of corruption and misconduct. Approximately 100 integrity advisors will have entered public administration by May 2014.

This course is an unrivalled and unique one in Hungary and international level as well, which is under the protection of the Hungarian State Audit Office. Participants of the course: public servants from ministries, central public administration institutions and government offices who had to be passed a selective procedure. The study details as follows: 2 semester, 200 contact hours, 60 credits, 7 modules, 21 subjects. The created materials cover all areas including criminal, civil, public administration and social science matters which could be correlated with corruption.

The course consists of the following modules and subjects:

Module I: Public administration, control, economy

- Methodology of the strategic planning and development of public administration
- Budget economy, public finances
- Control of the public administration and the contributory organisations

Module II: Prevention and criminology of the corruption:

- Criminology and criminal psychology of the corruption
- Criminal law concern of the corruption
- Methodology, risk assessment, statistics
- Corruption prevention

Module III: Organisation administration, organisation development, integrity:

- Organisation administration and management
- Organisation development and organisation psychology
- Knowledge management
- Integrity management

Module IV: Personal administration:

- Public service personal law
- Personal management
- Professional ethics and culture, lobby

Module V: Information management:

- Data handling, data safety, data protection
- Information management and e-public administration

Module VI: International organisations and anti-corruption:

- European dimension of anti-corruption (EU, OLAF, EC)
- International dimension of anti-corruption (UN, OECD)

Module VII: Facility development:

- Cooperation development and communication (group work)
- Organisational communication (training practices)
- Conflict analysing and conflict handling (training practices)

The theory and practice of integrity advising have broad applicability in public administration, and may contribute to curbing corruption and, ultimately, to a fair, ethical and customer-focused public administration. The launch of the training is of great importance for public service in Hungary. It is also an educational achievement of international relevance, which renders Hungary's anti-corruption measures exemplary.

With effect from September 2013, anti-corruption and integrity will be included as course subjects in the curriculum of graduate training programmes in public service.

The strengthening of the personal integrity of public servants is the subject-matter of 1-day and 2- and-a-half day courses focusing on situational exercises and case studies, thereby facilitating familiarity with the tools capable of the proper management of corruption risk situations and deepening theoretical knowledge of corruption as a phenomenon. The methodology to be developed in the project and preliminary training for trainers guarantee the success of the training.

2. The NUPS organised the Integrity management training for leader public servants from the central public administration institutions and county governmental offices.

The technical details of the training:

Participation of 720 public servants in 18-person-groups

The time period is 2,5 days

The interval of the training: 4th of September 2013 – 31st of January 2014

Train the trainers: using the previous Integrity project's material and the results of the Integrity advisor training

Organisational tasks, trainers: belong to the NUPS

3. The „Public service ethics and integrity” so-called mini trainings' target is the Hungarian public servants working in the public administration, in the framework of one-off breaking through culture.

The technical details of the trainings:

Participation of 8850 public servants

In the framework of a one-day-long training

The interval of the training: 2nd of September 2013 – 28th of February 2014

The locations of the trainings: Budapest and countryside

Using the Code of Professional Ethics issued by the Hungarian Government Officials Corps. and the results of the Integrity advisor postgraduate training course; beside the ethics materials of the common basic module.

Bearing these considerations in mind, the Government passed government decree no. 50/2013. (February 25.) on the integrity management system of organs of public administration and on the procedural rules applicable to dealing with lobbyists, which is the first statutory regulation expressly aimed at strengthening integrity in Hungary.

ANNEX 8: STATISTICAL DATA ON COERCIVE MEASURES IN THE INVESTIGATIVE PHASE (REC 3D)

| Value, damage, financial injury, financial advantage | Registered offences together | | | | | |
|---|------------------------------|-----------------------|--------------------|---------------------|-----------------------|--------------------|
| | y 2010 | | | y 2011 | | |
| | Mode of recovering | number of offences | amount | recovered amount | number of offences | amount |
| with sequestration after precautionary measure | 9 | 557094 | 510890 | 22 | 1919393429 | 1376382489 |
| as a result of mediation | | | | | | |
| seizure | 14838 | 8018379314 | 5685796100 | 12116 | 7238172659 | 5554544149 |
| with seizure and sequestration | 78 | 710941039 | 681124201 | 61 | 1414001135 | 208625509 |
| voluntarily | 4645 | 3194826560 | 1434609778 | 3168 | 2596969278 | 1204680692 |
| voluntarily and with seizure | | | | | | |
| voluntarily with seizure and sequestration | | | | | | |
| with refund of debt | 367 | 319273208 | 186663189 | 297 | 620659679 | 244820291 |
| with sequestration | 53 | 5755325696 | 1908460818 | 47 | 3270002099 | 1360079480 |
| other way | 5886 | 15788754318 | 6373421119 | 4900 | 5267755263 | 2890719274 |
| different way | | | | | | |
| Total | 25876 | 33788057229 | 16270586095 | 20611 | 22326953542 | 12839851884 |

| Value, damage, financial injury, financial advantage | Registered offences together | | | | | |
|---|------------------------------|--------------------|---------------------|--------------------------|--------------------|---------------------|
| | y 2012 | | | y 2013 | | |
| Mode of recovering | number of offences | amount | recovered amount | number of offences | amount | recovered amount |
| with sequestration after precautionary measure | 28 | 1002040986 | 846830142 | 16 | 836126514 | 258513720 |
| as a result of mediation | | | | 7 | 7136952 | 3795170 |
| seizure | 10598 | 18846129714 | 6704644136 | 11172 | 7772853333 | 6009295179 |
| with seizure and sequestration | 70 | 666771756 | 105900656 | 61 | 1918870594 | 1246059443 |
| voluntarily | 3512 | 2919015325 | 1213425703 | 2803 | 4948572463 | 1940534297 |
| voluntarily and with seizure | | | | 36 | 5907995 | 4847551 |
| voluntarily with seizure and sequestration | | | | | | |
| with refund of debt | 283 | 411408932 | 195852454 | 215 | 153309876 | 108721416 |
| with sequestration | 254 | 1921216738 | 1091938914 | 85 | 546286851 | 483640256 |
| other way | 3857 | 2245215430 | 1122727243 | 3316 | 18298087594 | 14118080032 |
| different way | | | | 846 | 247563679 | 138698622 |
| Total | 18602 | 28011798881 | 11281319248 | 18557 | 34734715851 | 24312185686 |

| Value, damage, financial injury, financial advantage | Registered offences together | | |
|---|------------------------------|-------------------|---------------------|
| | y 2014. month I-IV. | | |
| Mode of recovering | number of offences | amount | recovered amount |
| with sequestration after precautionary measure | 3 | 22516644 | 10350000 |
| as a result of mediation | 23 | 6520544 | 4299190 |
| seizure | 3566 | 1954384103 | 1633741416 |
| with seizure and sequestration | 15 | 1380341550 | 1356952450 |
| voluntarily | 868 | 655861897 | 335930109 |
| voluntarily and with seizure | 56 | 10035269 | 5823682 |
| voluntarily with seizure and sequestration | 1 | | |
| with refund of debt | 147 | 293699979 | 121348808 |
| with sequestration | 4 | 232082098 | 232082098 |
| other way | 285 | 89237539 | 46707320 |
| different way | 1047 | 545950794 | 349549817 |
| Total | 6015 | 5190630417 | 4096784890 |

| Value, damage, financial injury, financial advantage | Domestic Bribery | | | | | |
|---|-----------------------|----------------|---------------------|-----------------------|----------------|---------------------|
| | y 2010 | | | y 2011 | | |
| Mode of recovering | number of offences | amount | recovered amount | number of offences | amount | recovered amount |
| with sequestration after precautionary measure | | | | | | |
| as a result of mediation | | | | | | |
| seizure | 18 | 1591000 | 991000 | 18 | 1050000 | 1050000 |
| with seizure and sequestration | | | | | | |
| voluntarily | 2 | 50000 | 50000 | 8 | 253398 | 253398 |
| voluntarily and with seizure | | | | | | |
| voluntarily with seizure and sequestration | | | | | | |
| with refund of debt | | | | | | |
| with sequestration | | | | | | |
| other way | 11 | 1112396 | 955638 | 6 | 261019 | 261019 |
| different way | | | | | | |
| Total | 31 | 2753396 | 1996638 | 32 | 1564417 | 1564417 |

| Value, damage, financial injury, financial advantage | Domestic Bribery | | | | | |
|---|-----------------------|-----------------|---------------------|-----------------------|----------------|---------------------|
| | y 2012 | | | y 2013 | | |
| Mode of recovering | number of offences | amount | recovered amount | number of offences | amount | recovered amount |
| with sequestration after precautionary measure | 18 | 74320000 | 65560000 | | | |
| as a result of mediation | | | | | | |
| seizure | 9 | 2230530 | 2140530 | 7 | 595920 | 595920 |
| with seizure and sequestration | | | | | | |
| voluntarily | 3 | 4000000 | 4000000 | 1 | 150000 | 150000 |
| voluntarily and with seizure | | | | | | |
| voluntarily with seizure and sequestration | | | | | | |
| with refund of debt | | | | | | |
| with sequestration | | | | 9 | 284455 | 284455 |
| other way | 3 | 1045000 | 1045000 | 1 | 10000 | 10000 |
| different way | | | | | | |
| Total | 33 | 81595530 | 72745530 | 18 | 1040375 | 1040375 |

| Value, damage, financial injury, financial advantage | Domestic bribery | | |
|---|-----------------------|----------|---------------------|
| | y 2014. month I-IV. | | |
| Mode of recovering | number of offences | amount | recovered amount |
| with sequestration after precautionary measure | | | |
| as a result of mediation | | | |
| seizure | | | |
| with seizure and sequestration | | | |
| voluntarily | | | |
| voluntarily and with seizure | | | |
| voluntarily with seizure and sequestration | | | |
| with refund of debt | | | |
| with sequestration | | | |
| other way | | | |
| different way | | | |
| Total | 0 | 0 | 0 |