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

**Cancels & replaces the same document of 19 October 2023**

**PHASE 4 EVALUATION OF HUNGARY: ADDITIONAL WRITTEN FOLLOW UP REPORT**

13-14 June 2023  
Paris, France

This report was submitted by Hungary for the June 2023 plenary meeting of the Working Group on Bribery in International Business Transactions. It does not reflect the views or opinions of the Working Group on Bribery.

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**Instructions**

*This document seeks to obtain information on the progress that Hungary has made implementing certain key outstanding recommendations of its Phase 4 evaluation report. In January 2023, the Working Group issued a public statement urging Hungary to implement long-standing OECD Anti-Bribery recommendations. The Working Group decided in December 2022 that Hungary must report in June 2023 that it has made significant progress to address outstanding recommendations relating to its implementation and enforcement of the OECD Anti-Bribery Convention, or the Working Group will send a high-level mission to Budapest.<sup>1</sup> The template below recalls the outstanding recommendations and follow-up issues.*

*Responses to the first question should reflect the current situation in your country, not any future or desired situation or a situation based on conditions which have not yet been met. For each recommendation, separate space has been allocated for describing future situations or policy intentions.*

Please submit completed answers to the Secretariat on or before 19 May 2023.

**Name of country: HUNGARY**

**Date of approval of Phase 4 evaluation report:<sup>2</sup> 27 June 2019**

**Date of approval of Phase 4 two-year written follow-up:<sup>3</sup> 16 June 2021**

**Date of information: June 2023**

**We are continuously incorporating or taking other measures to comply with the OECD WGB Recommendations into our legislation, demonstrating our commitment to the detection and effective investigation of international corruption offences.**

**The National Anti-Corruption Strategy for the period from 2023 to 31 December 2025 and the related Action Plan are in the process of finalisation, as informed at the December 2022 plenary session.**

**The draft has also been discussed by an independent Anti-Corruption Task Force attached to the Integrity Authority (reported in detail in the December 2022 plenary meeting), which has an independent analytical, proposal, opinion and decision making function, with an equal number of representatives of public authorities and NGOs/individuals (10-10 persons). The Task Force adopted its special report in June. A broad consultation process is currently underway involving other national relevant stakeholders as well. Consultations with the OECD and the Council of Europe (GRECO) have been also part of the consultation. The OECD sent its report on the Strategy and Action Plan at the end of June and Council of Europe sent its opinion on 22 May 2023. We have also sent the original and then the revised text of the National Anti-Corruption Strategy and the related Action Plan to the European Commission for the Commission's opinion. We maintain the**

<sup>1</sup> OECD Working Group on Bribery Public Statement on Hungary, 31.01.2023, <https://www.oecd.org/daf/anti-bribery/hungary-should-urgently-implement-long-standing-oecd-anti-bribery-recommendations-enforce-its-foreign-bribery-laws-and-improve-engagement-with-working-group-on-bribery.htm>.

<sup>2</sup> Phase 4 report of Hungary, <https://www.oecd.org/corruption/OECD-Hungary-Phase-4-Report-ENG.pdf>.

<sup>3</sup> Phase 4 two-year written follow-up report, <https://www.oecd.org/daf/anti-bribery/hungary-phase-4-follow-up-report.pdf>.

**Hungarian position on some of the recommendations, while on the other key recommendations we can report progress in line with the Action Plan of the new Strategy.**

**Please note that the medium-term National Anti-Corruption Strategy for the period 2023 - 31 December 2025 and the action plan for its implementation was planned to be adopted at the end of June 2023 but the consultations took more time than it was expected.**

In addition, the working group is again reminded that in accordance with the recommendations the Government of Hungary amended with effect from 1 January 2021 Point 13(a) of Section 459(1) of Act C of 2012 on the Criminal Code in relation to the term ‘foreign official’ and increased by 14 new officers the human capacity of the authority in charge of the investigation and prosecution of international corruption offences (Supreme Prosecutor’s Office).

Circular letter No. 1/2019 (V. 31.) of the Deputy of the Supreme Prosecutor ensures the enforcement of actions applicable to legal entities under the criminal law; the application of such sanction provides mandatory guidance for prosecutors in cases of international bribery as well, together with the circular letter No. 2/2015 (IV. 30.) on the prosecutors’ tasks relating to the confiscation of unlawfully acquired wealth.

A comprehensive review of Act CIV of 2001 on Criminal Sanctions in Connection with the Criminal Liability of Legal Persons was commenced at the Ministry of Justice, in the first phase of which experience relating to the application of the existing legislation and difficulties experienced during application were collected; opinions and comments of university professors of faculties of law regarding pieces of legislation and possible amendments were elicited. The Ministry of Justice analysed relevant regulations of other EU Member States as well and collected relevant good practices. It is concluded from the results of the analysis that the relevant legislative solutions do not, in their main characteristics, differ much from the Hungarian law as regards the sanctioning of legal entities and the relationships between perpetrators and the legal entities concerned.

The investigative bodies are making continuous efforts to improve the effectiveness of detections and investigations, not only in order to comply with the recommendations but also to prove their commitment. Officers and owners of legal entities – both those involved and those not involved in criminal activities – must be encouraged to report crime and furnish evidence through an arrangement whereby the actions that can be applied against the legal entity in the case of a corruption offence might be eased or not applied at all if a senior officer of the legal entity, a member authorised to represent it, its managing director, a member of its supervisory board or a person commissioned by any of these, reports the crime before the authority acquired knowledge of it from other sources, and details the circumstances of the offence.

## **PART I: RECOMMENDATIONS FOR ACTION**

### **Text of recommendation 1(a):**

1. Regarding the **detection of foreign bribery in the government and private sectors**, the Working Group recommends that Hungary take the following steps to increase the effectiveness of its whistleblower system for the purpose of detecting the bribery of foreign public officials:

a) Raise awareness in the public and private sectors, including SMEs, of how an effective whistleblower system helps to detect crimes, including foreign bribery, and increases integrity in public and private governance. [2009 Recommendation IX, iii]

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

Based on the medium-term National Anti-Corruption Strategy 2023-2025 and the action plan for its implementation, Hungary will take the following measures:

**6.8. The government instructs the Minister heading the Prime Minister’s Cabinet Office to provide – with the involvement of the Minister of Justice, the Minister of Foreign Affairs and Trade and the Minister of Interior – for the conduct of information campaigns.**

**a) regarding the functions of parallel whistleblowing systems, the process and utility of disclosing, the protection of the whistleblower, highlighting citizens’ responsibility relating to the suspicion of foreign bribery.**

Responsible: Minister heading the Prime Minister’s Cabinet Office; Minister of Justice; Minister of Foreign Affairs and Trade; Minister of Interior  
Completion date: 30 June 2024

**6.9. The Government invites the Commissioner for Fundamental Rights to contribute to the implementation of subparagraph 6.8 a) promoting the discloser protection system becoming an effective means of the fight against corruption.**

**5.5. The Government instructs the Minister of Justice to work out a proposal for a more effective system for the provision of legal assistance to protect public disclosers in accordance with Directive (EU) 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law.**

Responsible: Minister of Justice  
Completion date: 30 September 2023

**5.6. The Government instructs the ministers concerned to provide for the delivery of trainings on the new whistle blower protection regulation among the bodies receiving disclosures, under their management and/or supervision.**

Responsible: the ministers concerned  
Completion date: 31 December 2025

**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 4(a):**

4. Regarding the **detection and investigation of foreign bribery by the competent authorities**, the Working Group recommends that Hungary:

a) Undertake an assessment of the foreign bribery risk exposure of: i) Hungarian companies, including SMEs, ii) MNEs using Hungary as a manufacturing base and then re-exporting goods to other markets, 3) the expanding presence of MNEs for the purpose of developing and exporting new technology-based industrial production, including in the transportation, healthcare and pharmaceutical industries, and 4) SOEs, including in the electricity, gas, transport and finance sectors

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

Based on the medium-term National Anti-Corruption Strategy 2023-2025 and the action plan for its implementation, Hungary will take the following measures:

**7.2. The Government instructs the Minister of Foreign Affairs and Trade to provide for the delivery of trainings for employees of agencies cooperating with Hungarian companies, and foreign representations, as well as participants involved in exports, in order to identify and avoid risks of international corruption and regarding the fulfilment of the obligation to report suspicions of the offence of foreign bribery they have detected.**

**Responsible: Minister of Foreign Affairs and Trade**

**Completion date: continuous**

**7.4. The Government instructs the Minister of Foreign Affairs and Trade to assess the exposure of Hungarian companies and other undertakings with international interests, regarding their exposure to foreign bribery, in a breakdown by economic sector.**

**Responsible: Minister of Foreign Affairs and Trade**

**Completion date: 31 December 2024**

**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 4(b):**

4. Regarding the **detection and investigation of foreign bribery by the competent authorities**, the Working Group recommends that Hungary:

b) Develop and implement a strategy for proactively detecting and investigating foreign bribery cases, including through the use of all available sources of detection inside and outside of the law enforcement community, and training specifically targeted at foreign bribery. [Convention, Article 5; 2009 Recommendation, I, paragraph D)]

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

**No progress has been made.**

**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 6(b):**

6. Regarding the **investigation and prosecution of foreign bribery**, the Working Group recommends that Hungary:

b) Urgently implement the Phase 3 recommendation to extend the two-year investigation time limit for foreign bribery offences in a manner that ensures that there is adequate time to apply investigative measures to natural person suspects including in highly complex multijurisdictional cases. [Convention, Article 6]

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

**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:**

We maintain our previous position. From a teleological interpretation of this recommendation, it can be clearly concluded that the aim is to ensure that in international bribery cases, even in the case of highly complex offences, sufficient time is allowed for the application of investigative measures, including those relating to witnesses. The extension of the time limit for investigation is merely a means to that end.

The Criminal Procedure Act regulates the so-called preparatory proceeding, the purpose of which is to establish whether a criminal offence is suspected, i.e. whether an investigation is necessary. The preparatory proceeding can be initiated on the basis of any information concerning the offence and lasts 9 months in corruption cases instead of 6 months for less serious offences.

According to Section 348 (2) of the Criminal Procedure Act, an investigation consists of two parts: detection and examination. The detection phase may last until the end of the criminal liability of the act in question, and aims at identifying the offence and the perpetrator to the extent necessary to establish reasonable suspicion, while the examination is conducted against a specific suspect, ending with the termination of the proceedings or the indictment.

Pursuant to Section 351 (3) of the Criminal Procedure Act, the time limit for the examination phase of the investigation remains unchanged at two years from the interrogation of the suspect, which period is not subject to any intermediate limitation, and is considered the final time limit set for the purpose of indictment, however, pursuant to Section 351 (4) of the Criminal Procedure Act, the prosecution may extend the two-year time limit once, by up to six months, without any particular requirement.

It is important to stress that criminal proceedings may be suspended for various reasons, the duration of which does not count towards the time limit for the investigation. This can occur, for example, in cases of mutual legal assistance, which is common in the case of international crimes or where the proceeds of crime are located abroad. The suspension does not prevent the investigation from continuing, but no procedural measure directly affecting the suspect may be taken. While an effective recourse to mutual legal assistance may require a longer investigation period, our view is that this objective is better served by the suspension of criminal proceedings as provided for in the Criminal Procedure Act.

If we consider the above facts in the context of a specific crime and specific penalties and figures, the following should be highlighted. The offence of active bribery regarding a public officer committed in connection with the operation of a foreign official in violation of section 293(1) of Act C of 2012 on the Criminal Code (hereinafter: the Criminal Code) and qualified under paragraph (3) is punishable by imprisonment for a term of one to five years. In this case, the duration of the preparatory proceedings shall not exceed nine months. If the suspicion of a criminal offence is confirmed during the preparatory proceeding, the next step is the initiation of an investigation, which starts with detection. This part is in fact limited by the statute of limitations for the offence, in this case twelve years under section 26(2) of the Criminal Code. The two-year investigation period criticised by the OECD is actually calculated from the time of the interrogation of the suspect, i.e. from the start of the examination phase, and does not include the time spent on detection.

**Text of recommendation 9(b):**

9. Regarding **corporate responsibility for foreign bribery**, the Working Group recommends that Hungary:

b) Review Act CIV of 2001 on the liability of legal persons, in consultation with business, NGOs and the legal profession, to identify possible opportunities to improve the clarity and efficacy of the law on the liability of legal persons in relation to the foreign bribery offence. [Convention, Articles 1 and 2; 2009 Recommendation, Annex I, paragraph B)]

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

**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:**

The Ministry of Justice continues its comprehensive review of Act CIV of 2001 on criminal measures against legal persons, the first phase of which involved contacting the relevant authorities and the judiciary to obtain their experience of the application of the current legislation, including any difficulties in its application. All existing law faculties were also contacted in order to allow academics to express any concerns they may have about the legislation and to make suggestions for improvements.

The Ministry of Justice also analysed the relevant legislation in other EU Member States and collected good practice in this area. Based on the results of the analysis so far, it can be concluded that these legal solutions do not differ significantly from the Hungarian legislation in their main features, as regards the sanctions for legal persons and the link between the offenders and the legal persons concerned.

In line with the above, the current Hungarian legislation does not show any differences compared to those observed in other EU Member States that would explain why the application of the law is not sufficiently effective, and no feedback was received from practitioners or academics that would point to fundamental codification shortcomings or problems.

The current provisions of Act CIV of 2001 on Criminal Measures against Legal Persons are sufficiently effective also in cases of corruption offences with an international dimension, where the offences were committed using legal persons or benefiting legal persons. (Interpreted in accordance with the Criminal Code. Article 74(2) of the Criminal Code, which allows for the confiscation of assets in the case of enrichment of a legal person as a result of a criminal offence also against an economic organisation or legal person.)

## PART II - FOLLOW-UP ISSUES

11. The Working Group will follow up on the issues below as case law, practice, and legislation develops:

**Text of issue for follow-up 11(b):**

b. The impact of recent legislative reforms on the ability of the media and NGOs to play an effective role in detecting allegations of foreign bribery;

**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 further progress in this regard.**

**Text of issue for follow-up 11(i):**

i. How in practice the presidents of the individual courts allocate cases of foreign bribery to judges pursuant to the Rules on the Case Administration of Courts, including in particular criteria for allocating and transferring cases that may provide for greater discretion, such as regarding the specialisation and experience of judges, and the need to relieve case backlogs;

**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:**

**Our view on this point made during the preparation of the 2 year follow-up report remain unchanged.**

**There is no court specialized in the adjudication of foreign bribery and corruption cases in the Hungarian judicial system, the adjudication of such cases falls under the jurisdiction of the tribunals on first instance with regard to Section 20 Subsection (1) Point 11 of Act XC of 2017 on Criminal Code of Procedure.**

**According to Chapter V. Point 6 of the Order 6/2015 (XI.30.) of the National Office for the Judiciary on the Rules of Court Administration, each court operates under a specific case allocation order, and the tasks and criteria for determining the case allocation order are set out here.**



The case allocation order must specify the cases on which judges, assistant judges and court administrators may act (case allocation) and the rules for the allocation of cases (case assignment).

The principles set out in Section 10 Subsections (1) and (3) of Act CLXI of 2011 on the Organization and Administration of Courts shall be taken into account when determining the case allocation order.

Thus, in order to enforce the right to a lawful judge, the order of assignment of cases must be drawn up in such a way that it can be established in advance which council/judge will act in a given case, including who will act in its place if the chamber or a member of the chamber is prevented from acting.

The order for the assignment of cases shall specify the composition and number of the councils of the court, the cases to be assigned to the judges, the councils, including the judges on secondment, and the assistant judges acting under the authority of a first instance judge in the case specified by law, who shall act in their place if they are prevented from doing so, the head of the court authorized to assign cases and the manner in which cases are assigned.

When establishing and reviewing the allocation of cases, particular account shall be taken of the importance of the cases, the workload, the statistics on the number of cases, the implementation of a proportionate workload, the requirement of timeliness of the judgments, the particular expertise of each judge, and the specialization of the subject matter of the case.

Further guiding principles according to the Order 6/2015 (XI.30.) of the National Office for the Judiciary on the Rules of Court Administration are that the case allocation order must cover all judges, assistant judges, court administrators, including those who work partly or entirely in non-litigation proceedings (principle of completeness); the allocation of cases must be established in a general way, so that it can be determined which judge (judicial chamber), assistant judge or court administrator has to deal with the case (principle of abstraction); the allocation of cases can only be changed on the basis of a predetermined set of procedures (principle of permanence); the allocation of cases must specify the periods at which the impact of the allocation on the workload of judges, assistant judges and court administrators must be examined (principle of workload equalization), also the conditions for amending the case allocation order; the reallocation of a previously allocated case must also be carried out in accordance with the principles of the case allocation order (principle of identity of applicable rules); the method of allocation of cases must be determined in a predictable and transparent way, according to predefined principles, without any subjective decisions (the principle of variability of case allocation techniques).

**Text of issue for follow-up 11(j):**

j. How in practice senior prosecutors apply Article 398 CCP when determining whether to: i) annul the decision of a subordinate prosecutor to investigate or prosecute a case of the bribery

of foreign public officials; and ii) transfer a foreign bribery case from one prosecutor to another;

**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:**

Based on a comparison of Article 29 of the Fundamental Law, Articles 12 and 13 of Act CLXIII of 2011 on the Public Prosecutor's Office (hereinafter: Ütv.) and Article 25 of the Act on the Criminal Code of Procedure), it can be concluded that the legislator has assigned the tasks, rights and obligations related to the supervision and management of investigations, the preparation of charges and the representation of the prosecution to the Public Prosecutor's Office as an organisation and not to the individual prosecutor.

In the light of this, the decision to terminate the proceedings under Section 398 of the Criminal Code of Procedure is a decision of the prosecutor's office in charge of the case, not a decision of the lead prosecutor. The lead prosecutor has no power under the CCP. or the Ütv. to "annul" the decision of the subordinate prosecutor by applying § 398 of the CCP..

Paragraph (7) of Article 26) of the CCP grants the possibility under Article 26(2) of the CCP to the superior prosecutor's office. However, the decisions of the subordinate prosecutors may only be changed or annulled in the event of a violation of the law, and the superior prosecutor's office has no discretionary decision-making competence in this area.

The assignment of criminal cases by a superior prosecutor, the appointment of a different subordinate prosecutor or the reassignment of cases should also not raise concerns in proceedings for corruption offences of an international nature or other offences, in view of the following:

There are two ways in which cases may be diverted from a subordinate prosecutor: Within the department, the lead prosecutor assigns another prosecutor or himself/herself to handle the case instead of the rapporteur prosecutor (reassignment).

Between organisational units, the superior prosecutor's office may designate a prosecutor's office which would not have jurisdiction or competence to handle the case, pursuant to Section 29(3) of the CCP (designation).

Although the Prosecutor's Office is an independent judicial body, the subordinate prosecutors and subordinate prosecution units are obliged to carry out the orders of the superior prosecutor, according to the logic of the hierarchical structure of the Prosecutor's Office. Neither reassignment nor assignment is a means of influencing cases. The lead prosecutor or the superior prosecutor's office can directly enforce its position on the judgement and disposition of the case by giving instructions on the case.

Reassignment is primarily a tool for work organisation by which senior prosecutors can ensure that the workload of subordinate prosecutors is evenly distributed.

Paragraph (3) of Article 60/A of the Instruction No.12/2012 (VI.8.) on the Organisation and Functioning of the Public Prosecutor's Office (LÜ Instruction No.12/2012) lists the

reasons for the reassignment of cases (health, objective reasons of work organisation, personnel reasons, or the exclusion of the case officer) in a taxative manner, thus reassignment may only take place for objective reasons specified in the Instruction, which excludes the subjective exercise of the reassignment power that may be subject to abuse. On the other hand, the disqualification of the administrator under Section 28(6) of the CCP may only be made for the reasons exhaustively listed in Section 27(1) of the CCP.

As a general rule, the senior prosecutors of the prosecution service unit are entitled to reassign cases, who are personally responsible for the timeliness, professionalism and quality of the work of the service unit and of the assigned prosecutors. The need for flexible work organisation in line with the workload does not permit the application of a stricter set of criteria than those laid down in Article 60/A(3). Reassignment is usually due to the absence (leave, illness) or workload of the prosecutor in charge.

A designation is usually used by the superior prosecutor's office for reasons of expediency. A typical example is when several offences of one offender are tried in the same criminal proceedings and the prosecuting authority does not have jurisdiction or competence for all of them, but it is not practical to separate the cases because of the inter-personal relationship. In such a case, the prosecuting prosecutor's office makes a proposal for its designation.

It is the consistent practice of the prosecution to make such designations in order to avoid the appearance of a biased administration of justice and to preserve confidence in the impartiality of the judiciary.

It is a small percentage of cases, but noteworthy in terms of its importance, when the Prosecutor General's Office assigns the investigation of a case under the jurisdiction of the investigating authority to the prosecution, designates the Central Investigation Prosecution Office to investigate the case and provides for the case to be treated as a priority. In this sense, the designation reflects the importance of the case

### **PART III – ENFORCEMENT**

Please describe any development in the detection, investigation, prosecution and/or resolution of any foreign bribery-related case since June 2021, including those cases listed in the Matrix over which Hungary has jurisdiction.

**Additional information:** Based on the medium-term National Anti-Corruption Strategy 2023-2025 and the action plan for its implementation, Hungary will also take the following measures:

#### **7. Action against foreign bribery**

**7.1. The Government instructs the Minister of Justice and the Minister of Interior to scrutinise**

**a) the operation of the rules on the financing of domestic political parties in the light of action against foreign bribery.**

**b) the international and European legal rules and practices applying to political organisations in relation to countering foreign bribery.**

Responsible: Minister of Justice, Minister of Interior

Completion date: 31 December 2023

**7.3. The Government instructs the Minister of Finance to provide for the regular delivery of special training for those engaged in accounting, auditing, and for tax experts and tax advisers, regarding the risks of international bribery.**

Responsible: Minister of Finance

Completion date: continuous

**7.5. The Government instructs the Minister of Finance to create a framework for cooperation between the National Tax and Customs Administration and the Supreme Prosecutor's Office regarding international bribery, to enhance access to judgements delivered and to boost the efficiency of the sending and receipt of disclosures concerning offences detected by the tax authority.**

Responsible: Minister of Finance

Completion date: 31 December 2023

**7.6. The Government instructs the Minister of Justice to conduct – while initiating cooperation with the Supreme Prosecutor – a programme for international exchange of experience, to promote the effective performance of investigation by the prosecution service of cases of international bribery, representation of the prosecution and the related codification tasks.**

Responsible: Minister of Justice

Completion date: 31 December 2025