

## SURVEY OF ANTI-CORRUPTION MEASURES IN THE PUBLIC SECTOR IN OECD COUNTRIES: HUNGARY

### 1. What anti-corruption mechanisms exist for the public sector in your country?

#### a) *Legislation proscribing corrupt activities and establishing sanctions*

The major Act prohibiting corrupt activities and establishing sanctions is Act no. IV of 1978 on the Criminal Code. It prohibits and sets penalties for criminal activities in state administration, administration of justice and in the domain of public life, in particular:

- Criminal acts “against the order of elections, referendums and popular initiatives” covers, inter alia, the sanctions applicable against those breaching the rules of the nomination procedures, those voting unentitled and those stating false data.
- A person commits the criminal act of “breaching rules on state secrets” who, without authorisation, obtains and uses state secrets or makes such available to unauthorised persons.
- A person commits the criminal act of “breaching rules on service secrets” who, without authorisation, obtains and uses service secrets or makes such available to unauthorised persons.
- The criminal act of “maladministration” is committed by an official person who breaches his or her official duty, acts outside his or her competency or otherwise abuses his or her official position, in order to cause illegitimate disadvantage or to gain illegitimate advantage.
- A more severe punishment is applied if such activities are committed by the official in the course of official procedures conducted by such official.

Of the criminal acts against “fairness and legitimacy in the domain of public life” the following should be highlighted:

- “Corrupt practices” (accepting bribes) are committed by an official who asks for or accepts advantage or a promise thereof in relation to his or her official activities, or makes an agreement with a person asking or offering such advantage. The sanction is more severe where the criminal act is committed by a senior official, or a person authorised to proceed in respect of issues of higher importance, or by any official person acting in respect of a more important issue. Also more severe sanctions are applied where the person committing such act breaches his or her official duty, exceeds his or her scope of authority or otherwise abuses his or her official position in exchange for the advantage given, or if such criminal activity is committed in a conspiracy or on a habitual basis.

- The criminal act of “trading in influence” is committed by a person who, with reference to his or her influencing an official, asks for or accepts an advantage for him or herself or for another person. The sanction is more severe if the perpetrator claims to have, or gives an impression of having, bribed an official or, if he or she tries to pass for an official person;
- The category of “persecution of a person having made a report in the public interest (whistle blower)” is to penalise a person who takes an action adverse to someone who has made the report in the public interest, for having done so.

**b) *Other anti-corruption regulations or orders***

Of other anti-corruption regulations or decrees it must be noted that these have, partly, direct and, partly, indirect effects on combating corruption. These can include some governmental decrees and some governmental decision-level regulations.

**c) *Oversight by the legislature or parliament (directly or through scrutiny committees)***

In respect of legislation or Parliamentary supervision the practice that has become most frequently applied in combating corruption is setting up *ad hoc* Parliamentary investigation committees. The Parliament may delegate an investigating committee for the exploration of any issue and may also set up an *ad hoc* committee to manage the case defined in the decision setting up the investigating committee. The establishment of *ad hoc* investigation committees is governed by the Parliamentary Decision no. 46/1994 (IX.30) on the Procedures of Parliament.

**d) *Investigation systems or bodies with powers to investigate corrupt activity***

In respect of investigation systems or organisations authorised to investigate corrupt practices, this is primarily the role of the Police of the Republic of Hungary and the Supreme Prosecutor's office. These bodies are granted statutory functions, jurisdiction, competencies, and independence from other organisations and appropriate systems. The anti-corruption activities of the Central Law Enforcement Directorate set up in recent years within the organisation structure of the Police should also be mentioned. The activities of the Protective Service of the Organisations for the Protection of Law and Order are also significant in this area.

**e) *Supreme financial audit authority***

The role of the state court of audit is performed by the State Audit Office, the functions, jurisdiction, competency and degree of independence of this public institution is defined by the Constitution of the Republic of Hungary as well as the Act no. XXXVIII of 1989 on the State Audit Office. The effect of these provisions is to make the State Audit Office the financial and economic supervisory organ of the Parliament, reporting exclusively to Parliament and governed exclusively by the relevant Acts of law.

According to its legal status it is an organisation with a scope of tasks, authority and competency defined by law, it is the supreme organisation of state control, its organisation structure, staffing and annual budget is approved by the Parliament. Among its general tasks, it controls the financial management of the public finance system, examines, among other things, the soundness of the budget proposals, the

legitimacy of the expenditure, controls the management of state assets and monitors compliance with the state accounting regime.

**f) Ombudsman**

The legal institution of the Ombudsman is one of three Parliamentary commissioners and is known as the Commissioner of citizens' rights. It is regulated by the Constitution and Act no. LIX of 1993 on the commissioner's legal status, while that of the commissioner of national and ethnic minorities by Act no. LXVII of 1993 and that of the commissioner for data protection by Act no. LXIII of 1992.

The responsibilities of the Parliamentary commissioners include investigation of irregularities, problems of procedures - not only state administration procedures - affecting constitutional rights, and taking of general or individual actions to provide legal remedies. Publicity is an important element of their activities and they report to Parliament on an annual basis. The Parliamentary commissioners are elected by Parliament with a two-thirds majority of votes and the costs of their activities are specified in a separate chapter of the central budget.

**g) Bodies to enforce sanctions and prosecute corrupt activity, e.g. specialised prosecutors, investigators, courts, tribunals, etc.**

In general, anti-corruption activities are included in the scope of responsibilities, authority and competency of a number of state organisations. Within the organisational structure of state administration special mention should be made in (indirect) connection with this issue of the role of the Governmental Control Office set up by the Government, operating on the basis of the Government Decree no. 138/1994 (X.28). The major responsibility of this organ of public administration is control of the operation of the general governmental budget (the central budget) including:

- the financial transactions from that budget,
- the governmental expenditures effected from the central budget, including the permitted subsidies and preferences,
- the budgetary chapters and the financial management of the central organs belonging to such chapters,

as well as the operation of separated state funds.

The Office's controlling activities are aimed at monitoring compliance and appropriateness. The Office serves written notice to Government of any finding that requires Governmental action. This notice can also propose the termination of improper practices even without Government action. In the course of the examinations the Office must request prompt decisions to prevent damage if it finds that funds have been used in a way considered as improper or wasteful or where a controlled organisation causes damage through gravely violating the rules governing the management of the funds made available to it.

***h) Human resources management procedures intended to prevent corruption***

In the case of employees of the public sector the re-regulation of employment relations in 1992 brought about a substantial step forward in the area of combating corruption. Legislative guarantees are contained, for those employed in the organisations of central public administration, in Act no. XXIII of 1992 on the Legal Status of Civil Servants, while for those employed in the wider budgetary sphere (public and higher education, administration of public collections, health and social services system) Act no. XXXIII of 1992 on the Legal Status of Public Servants.

In respect of civil servants, the following are significant in this context:

- a regulation concerning employment in civil service, which provides that only people without criminal records may be appointed civil servants;
- the possibility of competitive bidding which confirms the democratic and public nature of employment in civil service;
- legislative regulation of the issue of conflict of interests which establishes strict rules to ensure avoidance of illegitimate personal interrelationships;
- legislative rules on disciplinary and financial liability which also contain mechanisms to penalise maladministration and illegitimate actions.

In respect of those working in the wider budgetary sphere (public servants) the above Act on the Legal Status of Public Servants contains guarantee mechanisms similar to those applicable to civil servants.

At local government level, the detailed rules on mayors and vice-mayors have been laid down in the Act no. LXV of 1990 as well as in the Act no. LXIV of 1994 on Certain Issues of the Performance of the Mayors' Duties and the Remuneration of Local Governmental Officials.

***i) Financial management controls intended to prevent or deter corrupt practices***

The area of financial management is regulated by the relevant sections of Act no. II of 1979 on State Finances and the Council of Ministers' Decree no. 23/1979 (VI.28) on the implementation of the Act. These statutory instruments provide for a unit, or person, operating under direct supervision of the head (or deputy head) of governmental agencies in Ministries and organisations with national authority, to be designated solely for the purpose of budgetary and financial control.

On the basis of the findings of such controls the head (or deputy) of the controlling organisation or, in justified cases of delegated competencies, the official with the appropriate authorisation for taking action, shall initiate and/or order the required actions or measures. The head of the controlling organisation must take the required actions and serve written notice of them to the head of the budgetary controlling organisation.

Ministers, and heads of organisations with national authority perform budgetary and financial controlling activities of a supervisory nature in the separate budgetary institutions belonging to their respective areas of responsibility, with the aim of evaluating the efficiency and orderliness of the management of assets made available to such organisations, and their compliance with the provisions of their respective deeds of foundation. In general, the establishment of the internal control system, its regulation and efficient

operation belong to the sphere of responsibility of the head of the relevant budgetary or public administrative organ. The internal control system covers the control obligations of the executives, the controls built into the work processes and the tasks of the independent internal auditors.

***j) Organisational management policies, systems and controls intended to minimise opportunities for corrupt activity***

In respect of this area it is primarily the statutory instruments of various legislative levels (Acts of law, statutory instruments of Governmental and Ministerial decree levels) governing the legal status of the organisations of public administration that are important.

The establishment, disestablishment and fusion of organisations of public administration is generally effected by means of a statutory instrument establishing a framework for legitimate operations, and covers:

- legal status and legal relations of those employed by such organisations,
- mechanisms of hierarchy,
- rights of appointment and direction, and
- system of the controlling of the activities (reporting)

A separate Government decree governs the details of supervisory competencies of organisations of public administration supervised by the respective Ministers.

***k) Transparency mechanisms, e.g. independent or public scrutiny, systems for declaring or reporting potential conflicting interests or corrupt activity***

The aims of Act no. XL of 1995 on Public Procurement, and of the organisation set up by it, are:

- to rationalise the expenditures of the public finance system,
- to create transparency and the possibility for comprehensive public inspection of the expenditure of public moneys,
- to provide for fairness of competition in the course of public procurement transactions, and
- to promote domestic production of commodities and employment of domestic labour.

It is essential that in order to ensure transparency the reports containing the results of the audits, inspections and analyses performed by the State Audit Office are presented to Parliament.

***l) Guidance and training for public officials or politicians (e.g. codes of conduct, ethics awareness training)***

It is relevant to mention the systems of training for public administration and senior executives' training developed according to the authorisation provided in the Act no. XXIII of 1992 on the Legal Status of

Civil Servants. These programmes focus primarily on the legitimate activities of civil servants that can be improved by training, minimising the potential of illegitimate administrative activities.

These efforts are specifically intended to promote the efficiency of the application of laws. Also of fundamental importance is the Civil Servants' Code of Ethics which is being prepared on the basis of an authorisation by law. This is an undertaking in which representatives of scientific fields, trade and industry, representing organisations and alliances, also take part, providing expert and professional input.

*m) Other measures intended to control, detect or deter corruption*

Over recent years specific actions have been taken with the aim of controlling, detecting and deterring corrupt practices. Among these, are provisions to increase harmonisation and co-ordination of the activities of the organisations of customs administration, law enforcement, consumers protection etc. and to improve the efficiency of their actions.

**2. Which anti-corruption mechanisms are regarded as most effective (in terms of implementation and impact)?**

In the public sector the existence of rules and regulations on conflicts of interests, attaching priority to the role of the media and of publicity, as well as the earnings position of those working in the public sector are of outstanding importance.

**3. Is the effectiveness of these mechanisms formally evaluated? If so, what evaluation methods are used?**

At regular intervals the Government reviews and evaluates the efficiency of the practical implementation of the governmental measures and actions taken in this area and, on the basis of the reports submitted by the Ministries and the organisations of national competencies, it takes or initiates corrective actions, where necessary.

**4. What if any new actions against corruption in the public sector is your country currently considering?**

In this area it is of outstanding importance that in connection with the amendment to the Act on the Legal Status of Civil Servants aimed at reducing corruption in civil service, the rules on the conflicts of interests have been tightened and ongoing corrections are implemented to improve the earnings positions and, at the same time, the financial rewarding, in general, of those employed in civil service.

**5. Is there an official awareness or a policy position on the part of your government about which areas are of most concern in terms of corrupt or questionable activities involving the public sector?**

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