

**Subject: Information letter to be sent to the European Commission by March 16, 2023, in subject topic of enforcement of undertakings in the conditioning process**

Pursuant to the measures proposed in Regulation 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget, the Hungarian Parliament has enacted Act XXVII of 2022 on the control of the use of European Union budget funds (further: ‘the Integrity Authority Act’).

The above referred Integrity Authority Act established the Hungarian Integrity Authority (further: ‘the Authority’) with the intent to prevent and detect fraud and corruption in public procurements that are in part or in whole financed by European Union budget funds. The Authority is an autonomous and independent state administration body, subject only to the applicable laws.

### **Setting up the Authority**

For its effective operational purposes the Authority has its own office, where it can host the Anti-Corruption Task Force meetings in the future as well.

The final visual identity of the Authority was created and is now complete. Furthermore, the Authority’s Ethical Codex (Code of Conduct) is finished and the core values of the Authority are codified. The Authority has established a very strict and robust conflict of interest policy that is applicable for each and every employee of the Authority. The most important internal policies and regulations are issued, drafting of other policies are in progress. Compliance with these policies is mandatory and appropriately monitored.

The creation of the Authority’s website is in progress: suppliers for the operation of the website are being vetted and put up for tender.

The Integrity Authority established a whistle-blower hotline where anonymous and confidential communication may be conducted. The creation of a whistle-blower platform (where the platform itself will ensure anonymity) on the website of the Authority is in progress (suppliers are being vetted).

Numerous whistle-blower reports have been received by the Authority, roughly 20% of these contain relevant and meaningful information. A proportion of these reports contain relevant information for the Authority and pertaining to matters that are in scope for the Authority.

As of this date, the Authority has 21 preliminary reviews and 7 investigations progressing.

The Authority works to develop its own risk assessment methodology and to establish its risk universe as well as to develop its own review and investigation methodology. For this exercise, additional external consultants will be brought on board. The methodology will amalgamate inputs from tier 1 audit firms, OLAF, the European Commission and the State Audit Office. The Authority has established a robust process on how whistle-blower complaints and other matters to review or investigate are handled.

The training curriculum for professional staff is being developed.

Furthermore, the Authority has established working relationship with authorities, and relevant state bodies. Besides personal meetings with the heads of the state authorities, there are ongoing negotiations on the operative level as well.

The Authority drafted cooperation agreements to facilitate future cooperation with the following state authorities:

- a. Internal Audit and Integrity Directorate
- b. Prosecution Service of Hungary
- c. Hungarian Competition Authority
- d. National Tax and Customs Administration
- e. National Police Headquarters
- f. Anti-Fraud Coordination Service – AFCOS
- g. National Office for the Judiciary
- h. Hungarian State Treasury
- i. State Audit Office
- j. National Authority for Data Protection and Freedom of Information
- k. Public Procurement Authority of Hungary

Additional cooperation is underway with universities (including Corvinus University of Budapest, Eötvös Lóránd University, Mathias Corvinus Collegium) and research centres.

The Authority requires direct data access to a number of databases. Such access needs to be governed by data transfer agreements. Such data transfer agreements are in progress with:

- a. National Tax and Customs Administration
- b. Ministry of Interior of Hungary
- c. Ministry of Justice of Hungary

### **Headcount and resources**

According to Section 45 (1) of the Integrity Authority Act the president of the Authority shall determine:

- a. the personnel headcount necessary for the performance of the tasks of the Authority, and the system and categories of positions;
- b. the amount of resources required for the performance of the tasks of the Authority.

The Authority pays special attention to its' existing structure and the independence of its' entire activity.

The structure of allowance categories and the system and categories of positions is laid down in internal regulation on allowance categories. Beside the President and the two Vice-Presidents six allowance categories exist. These categories are based on qualification and experience of the employees: intern, assistant colleague, senior colleague, leader of sub-operational unit and leader of operational unit (head of office).

The Authority is currently actively hiring on the Hungarian labour market. In line with the current headcount and resource plan and in accordance with the internal organisational and operational rules of the Authority, the intended final headcount is planned to be between 90-150 employees, out of which 90 staff members should be on-boarded in 2023. 42 of the 90 headcount is designated to be a member of the investigation and forensic audit office.

The headcount of the Authority is 45 employees to date, with additional 11 offers already accepted (joining date in up to 30 days).

The Authority's objective is to achieve a healthy mix of individuals with diverse background, interest and with appropriate gender balance being an important factor. Therefore the Authority is currently selecting applicants both with business and audit background, as well as former public servants. The Authority considers attracting top talent and top academic professionals imperative. To this end the Authority has already successfully recruited well-renowned individuals who are considered to be leading experts in

their field of expertise. The Authority requires all new joiners to know, understand and apply the Ethical Codex of the Authority.

### **Secretariat of the Anti-Corruption Task Force**

According to Chapter VI of the Integrity Authority Act the Anti-Corruption Task Force (further: 'ACTF') was established in December 2022.

In accordance with Section 63 of Integrity Authority Act, the Authority provides secretarial and administrative support for the activities of the Task Force. The Secretary of the ACTF was appointed on the first meeting held on 13 December 2022. Furthermore, the Authority dedicated a project manager with extensive experience to provide project management support, manage administrative tasks of the annual report preparation and liaise between members of the ACTF.

The ACTF held 5 official meetings in the short period between 13 December 2022 and 13 March 2023. The minutes of the meetings of the Task Force were published on the website of the Authority.

The members representing non-governmental actors were selected through an open, transparent, non-discriminatory application procedure on the basis of objective criteria related to expertise and merit. The CVs as well as the applications of the non-governmental actors are published on the Authority's website.

The non-governmental participants of the Anti-Corruption Task Force are well known persons who are active in anti-corruption. The Authority, in the capacity of Secretariat of the Task Force, is ensuring that the work of the Anti-Corruption Task Force is organised and the participation of the participants is effective. All state organ and non-governmental participants in the ACTF expressed willingness and have meaningfully and constructively contributed to the work of the Task Force.

### **First report of the Anti-Corruption Task Force by 15 March 2023**

According to Section 50 of the Integrity Authority Act the tasks of the Task Force is, inter alia:

- a. to examine the existing anti-corruption measures and elaborating proposals concerning the detection, investigation, prosecution and sanctioning of corrupt practices, offences and criminal offences,
- b. to put forward proposals for measures aimed at improving corruption prevention and detection, and
- c. to prepare an annual report on the basis of these tasks.

In order to prepare the first annual report by 15 March 2023, and based on the operational rules of the ACTF approved by the members of the Task Force, five different sub-groups (so called "sub-task forces") were created with both governmental and non-governmental actors being present in all sub-groups ensuring equal representation of viewpoints. The sub-groups are focusing on different topics, such as:

1. Public procurement sub-group
2. European Union and national grants and subsidies sub-group
3. Public data and transparency sub-group
4. Criminal law and criminal procedures sub-group
5. Administrative and monitoring sub-group

The sub-groups held multiple meetings where both members representing state organs and non-governmental actors discussed the topics in detail, as well as provided written input to the first annual report of the Task Force. All sub-groups appointed a state organ and a non-governmental co-chair to ensure equal representation of point of views. This structure allows for effective and constructive

cooperation as well as suggestions and report chapters being put forward by the sub-group that are equally endorsed and supported by all participants.

The inputs and the chapters of the report are provided to the monitoring sub-group (equally co-chaired) which then harmonizes and finalizes the report. The final report is put up for vote and acceptance on 13 March 2023.

In accordance with Section 51 of the Integrity Authority Act the 'Annual Report of the Anti-Corruption Task Force' will be sent to the Government, which will publish it on its website. Furthermore, the 'Annual Report of Anti-Corruption Task Force' will be published on the website of the Authority as well.

Aiming on the next session of the ACTF is to prepare a specific, detailed workplan containing different topics on which the sub-groups will work in a dedicated manner. Members of the ACTF already suggested additional areas to be discussed, and the annual report of the ACTF contains sub-group plan proposals.

### **Integrity Risk Assessment**

In accordance with Section 9 of the Integrity Authority Act, the Authority conducts an integrity risk assessment for the protection of European Union funds, which includes an evaluation of the integrity state of play of the public procurement system in Hungary.

The integrity risk assessment of the public procurement system is carried out in consultation with the Organisation for Economic Cooperation and Development (further: "OECD") and is based on the indicators of the IV Pillar of the Methodology to Assess Procurement Systems (further "MAPS"), Accountability, Integrity and Transparency of the Public Procurement System (i.e. in accordance with an internationally recognised methodology for the evaluation of public procurement systems).

An effective and constructive discussion is in place between OECD and the Authority. The discussion does not only include formal topics around cooperation, but also discussion around methodological questions and how these are applied in the Authority's risk assessment.

An offer letter is currently being drafted between the Hungarian Government and OECD. In order to have a formal interaction with OECD, the Authority proposed to add the review of the risk assessment report drafted by the Integrity Authority based on OECD MAPS Pillar IV methodology to assess the applied methodology's conformity with the MAPS framework to the terms of reference of the offer letter.

The Integrity Risk Assessment report will be published by the end of March on the Authority's website.

### **Register of economic operators excluded from public procurement procedures**

In accordance with Section 28 of the Integrity Authority Act the Authority shall record the data of an economic operator in the register of economic operators excluded from public procurement procedures if the court has established in a final and binding conclusive decision that the economic operator or an executive officer or supervisory board member of the economic operator, its general manager, or its beneficial owner is a person who had committed a criminal offence.

Furthermore, in accordance with Section 76 of the Integrity Authority Act, this register shall start to operate after the conditions for direct data link to the criminal records system, the company information system, the private entrepreneur register and the beneficial owner register are ensured.

Data transfer agreements are currently drafted with the National Tax and Customs Administration, with the Ministry of Interior and with the Ministry of Justice to ensure a direct data link exists, in order to be able to record the data of economic operators required by law.

### **Support of the Directorate General for Audit of European Funds**

In accordance with Section 71 of the Integrity Authority Act, the Directorate General for Audit of European Funds (further: 'EUTAF') provides support for the provision of secretarial and administrative services in relation to the establishment of the Authority and provides the necessary infrastructure for a period of 6 months. Furthermore, EUTAF performs the economic organisational tasks of the Authority in accordance with the rules governing the management, accounting, data provision and operation of public finances for a period of 6 months.

The detailed rules for the performance of economic organisational tasks, the management tasks and the related responsibilities were laid down in an agreement between the Integrity Authority and EUTAF dated 14 December 2022.

In line with the above mentioned Section 71 and the referred agreement the secretarial and administrative support have been provided by EUTAF on a daily basis and with due care.