

Subject: Input of the Integrity Authority to the information letter to be sent to the European Commission by September 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 enacted Act XXVII of 2022 on the control of the use of European Union budget funds (further: 'Eufetv.').

The above referred Eufetv. established the Hungarian Integrity Authority (further: 'the Authority') in order 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.

1. Cooperation agreements

The Authority has established working relationship with authorities and relevant state bodies. Besides personal meetings with the heads of public authorities, there are ongoing negotiations at the operative level as well. Further to this, the Authority drafted cooperation agreements to facilitate future cooperation with public authorities and universities.

During the negotiation phase of these cooperation agreements, it became clear that only the modalities for the transfer of non-confidential data could be defined in the cooperation agreement unless it is specifically authorised by the legislation applicable to the cooperating partner. Furthermore, the Eufetv. only allows the Authority to have access to data upon request in the case of open investigation, but even in that case it does not specify or make available access to banking, tax, insurance, etc. confidential data. As regards the control of conflicts of interest and asset declarations, the Eufetv. does not contain any specific right of access to information or data.

The Authority strives to engage in an active and meaningful cooperation with other state organs. It was anticipated that a cooperation agreement is a useful vehicle in achieving this objective. With 11 months passed unfortunately the Authority has to conclude, that such cooperation agreements will have minimal impact on the Authority's work. Over the past period it has become clear that as a next step, relevant changes reflecting the Authority's power to access information will need to be reflected in corresponding regulations as well as in Eufetv. in order to be able to conduct meaningful cooperation agreements that ensure access the all relevant data.

Therefore until appropriate changes in legislation are issued, the Authority will stop further pursuing general cooperation agreements and will focus on cooperation agreements with universities and other academic bodies to further its goal on prevention, education and research methodology. In this respect, the Founding Document for the Integrity Research Centre of the University of Public Service (“NKE”) is being finalised, in which both the Integrity Authority and the Anti-Corruption Task Force are named as key contributors, who can propose research topics and take an active role in research projects.

Concerning the status of cooperation agreements, two have been finalized and are under signature, while the others¹ are on hold. The cooperation agreements with the University of Public Service (“NKE”) will be signed on 13 September, 2023 and the agreement with the Internal Audit and Integrity Directorate (“BEII”) will be signed on 20 September, 2023. Once these contracts are signed, they may be shared with the European Commission, upon request.

The Authority has repeatedly indicated in writing what extensions of powers and access to databases it requires to carry out its statutory tasks properly which was sent to the Ministry of Justice and also to the European Commission.

The required registers and databases are the following:

1. Related to public procurement:

- EKR public procurement database (which also contains documents, including tender information);
- Public Procurement Authority: Public Procurement Database
- Complete database of central purchasing bodies (full range of procedures based on framework agreements);
- Prime Minister's Office: EUPR database

2: Related to investigations:

- NAV database of beneficial owners
- Hungarian State Treasury: records of agricultural and VP programmes (Integrated Administration and Control System – IIER)
- Company Register OCCR (annual subscription fee is HUF 70m, however, can be provided for free of charge upon request)

¹ Cooperation agreement with the National Tax and Customs Administration (including Anti-Fraud Coordination Service – AFCOS), Hungarian State Treasury, Public Procurement Authority of Hungary, National Police Headquarters, Corvinus University of Budapest, Prosecution Service of Hungary, Hungarian Competition Authority, National Office for the Judiciary, National Authority for Data Protection and Freedom of Information, State Audit Office are on hold. The preparation of the cooperation agreement with the Directorate-General for Public Procurement and Supply and with the OLAF European Anti-Fraud Office has started.

- Takarnet land register: direct access to all properties

3. Relating to the control of asset declarations

- Integrated Portal-based Query System (IPL) managed by the Deputy State Secretariat for the Management of Registers of the Ministry of Interior: personal data and address registers, vehicle registers, etc.
- NAV: total annual income in the income tax return for the previous 5 years
- Bank account details (securities account, savings account, accounts receivable and debts with financial institutions, debts with individuals)
- Civil status data for the identification of relatives

The Authority would welcome if the extension of its powers would be governed in the next comprehensive legislative amendments in autumn 2023.

2. Register of economic operators excluded from public procurement procedures

As described above, the Integrity Authority continuous to be denied direct access to data which concerns also the operation of the register of economic operators excluded from public procurement procedures.

The Authority initiated numerous consultations with relevant ministries. It has identified problem areas and possible solutions to allow the Authority to start operating the register as soon as possible.

In this respect, the last meeting took place in June 2023 with the Ministry of Interior, the Ministry of Justice, the Ministry of Finance and the National Tax and Customs Administration at Deputy Secretary of State level, while these discussions at expert level are ongoing. The same was concluded, i.e. that although the Eufetv. contains the necessary provisions, also the related legal provisions need to be amended to have full access to the required data. The Authority would welcome if the extension of its powers would be governed in the next comprehensive legislative amendments in autumn 2023.

The Authority will need approximately 2-3 months from the access to the data to establish the IT environment for the task, to further develop the IT systems in cooperation with partner authorities and to establish the necessary data links to keep the register of economic operators excluded from public procurement procedures.

3. Headcount and resources

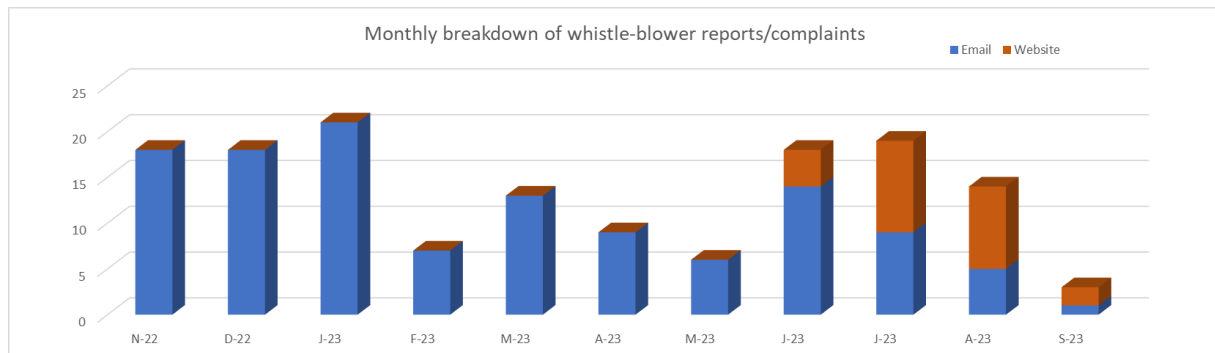
There is no change in the headcount and resource plan since the last information letter of 16 June, 2023.

The headcount of the Authority is 73 employees as of 6 September 2023, with additional 2 offers accepted (joining in September).

4. Whistle-blower report and investigations

The Integrity Authority's whistle-blower platform is now live and fully operational allowing anonymous and confidential communication to be conducted.

As of 6 September 2023, a total of 146 whistle-blower reports were received by the Authority (121 via email and 25 through the whistle-blower platform on the website). Out of these, 74 reports (51% of the whistle-blower reports) contain relevant and meaningful information pertaining to matters that are in scope for the Authority.



23 allegations proved not to be substantiated. Out of the remaining 51 reports, 3 are investigated, closed and published², 13 are under investigation. 4 are in preparation to open an investigation to be initiated by the Board and 31 are in the data collection and preliminary review phase.

The above mentioned 51 reports containing relevant and meaningful information covered the following funding programs:

Related EU funding program	Number of meaningful reports
14-20 TOP	12
14-20 VP	6
14-20 KEHOP	5
21-27 TOP+	4
14-20 TÁMOP	3
14-20 EFOP	2
CEF	2
14-20 GINOP	2
RSZTOP	1

² For further details please refer to: <https://integritashatosag.hu/publikaciok/>

RRF	1
14-20 IKOP	1
KEOP	1
DDOP	1
General ³	10
Total	51

Besides the whistle-blower reports received, on the basis of its own risk assessment using publicly available data, the Authority has started preparation for potential investigation in 9 cases, and has opened investigation in 4 cases.

5. Risk assessment methodology

Preventing the inappropriate use of EU funds is at the core of the Authority's work. Therefore, the Authority works to develop its own risk assessment methodology, to establish a risk universe, as well as develop its own review and investigation methodology and platform.

Currently, the Authority performs data analysis for risk assessment purposes manually, using traditional data analysis methods (i.e in MS Excel), and its risk assessment activity is also based on manual collection of information or via whistleblower reporting on wrongdoing. However, these traditional methods are not efficient or adequate for risk management at this scale and considering the large volumes of data relating to projects receiving, in part or in whole, financial support from the European Union.

The Authority has identified the need for designing an integrated artificial intelligence-based, data-driven framework and enhancing its analytics capacity as a key area where the adoption and implementation of international best practices – tailored for the context and purposes – is a must. This would allow the Integrity Authority to effectively and efficiently fulfil its mandate to prevent and detect individual and systemic irregularities related to fraud, corruption and conflict of interest in the use of EU funds, and to step up the fight against fraud and corruption risks with the right skills and capacity.

Therefore, the Authority prepared a request for technical support under the Technical Support Instrument (TSI) programme under Regulation (EU) 2021/240 (TSI Regulation). The deadline for the submission of the request is 31 October 2023. Currently, the request for the technical support has been drafted, preliminarily consulted with OECD experts and sent to the Hungarian coordinating authority (Ministry of Finance) for finalisation.

³ Not a complaint concerning a specific EU funding program: the subject of the complaint refers to a general misuse of EU funds

As part of the TSI programme, the Authority aims to receive expert support in (i) creating the Authority's long-term digital strategy, (ii) designing and drafting a digital action plan and performing the relating activities, (iii) developing a data-driven risk model for fraud and corruption risk assessment that is both effective and achievable, based on the diagnostic mapping and assessment exercise, and aligned with the Authority's digital strategy, as well as audit and quality assurance framework; (iv) capacity building for data-driven decision-making; (v) exchanges of best practices and implemented solutions with anti-corruption authorities and other competent authorities from other Member States to increase their analytical capability.

6. Reports published by the Authority

Annual analytical integrity report

The Authority is required to prepare an analytical integrity report every year. The first annual Integrity Report⁴ was made publicly available on 29 June 2023 on the Authority's website, covering the calendar year of 2022.

The Integrity Report, in accordance with Sections 11 and 77 of Eufetv. includes, inter alia, (i) a comprehensive analysis of the concentration of the public procurement market, (ii) an analysis of the differences between estimated and final prices in tender procedures; (iii) an assessment of applicable public procurement rules, bottlenecks in their implementation and the related administrative practices and the identification of risk indicators, (iv) an assessment of the use of framework agreements, (v) an assessment of whether and to what extent the existing control system of the use of EU funds is capable of identifying and effectively preventing, detecting and correcting risks of corruption, fraud and conflict of interest, (vi) a review of the regulatory framework and scope of the Hungarian asset declaration system; (vii) recommendations on improving the public procurement system and practices and (viii) an assessment whether relevant arrangements and practices related to conflict of interest in Hungary are consistent with the EU Financial Regulation (2021/C 121/01).

The Integrity Report, which is over 200 pages long, contains nearly 50 recommendations with the intention of introducing and strengthening good practices in the above mentioned topics. In the course of our work, we have found that the data from the domestic institutional system is fragmented, sometimes incomplete, and the information is often not verified. Our experience also varied in terms of the speed and capacity of data provision and the quality, completeness and usability of the data provided. Part of our recommendations accordingly deal with data and its maintenance and availability.

⁴ https://integritashatosag.hu/wp-content/uploads/2023/06/Integritas_Hatosag_Eves_Elemzo_Integritasjelentes_20220629.pdf

The key lesson from the work we have done is the need to introduce an “ownership approach” (and the responsibility that goes with it) and, where relevant, a risk-based approach across the whole range of institutions. The institutional control system needs to be equipped with the right human and IT tools, knowledge and methodologies to make control more effective.

The Hungarian Government shall, within three months of the publication of the Integrity Report provide to the Authority a detailed response to the recommendations listed in the Integrity Report. The deadline will expire on 29 September 2023.

Ad hoc report on asset declarations systems

The Eufetv. provisions relating to the system of asset declarations provide for the same analytical task for the Authority with deadlines of 30 June and 31 December 2023. Therefore, the Integrity Report (published on 29 June 2023) is primarily a descriptive presentation of the asset declaration system: it describes the development, operation, scope, control processes of the international and domestic regulatory framework of asset declaration systems, as well as the amendments to the relevant Hungarian law in recent years. In the ad hoc report to be published by 31 December 2023, the Authority will examine practices in other countries and look for good practices (if they exist) that could be transposed to the domestic context. On the basis of these international examples and its own analysis, the Authority will make recommendations to ensure that the asset declaration system can effectively fulfil its purpose and function, properly fulfil its social utility and contribute to the purity of public life.

The preparation of the ad hoc report has started and the search for international good practices is ongoing.

The Authority is also expected to report on the initial impressions relative to the reviews / audits of asset declarations in this report. We draw attention to the fact that until appropriate powers are granted to the Authority and direct unlimited access to data is granted, the Authority will not audit asset declarations.

Integrity risk assessment report

In accordance with Section 9 of the Eufetv., the preparation for the annual update of the integrity risk assessment to be completed by 31 March 2024 has started, which includes an evaluation of the integrity state of play of the public procurement system in Hungary (using the MAPS methodology).

7. Support of the Directorate General for Audit of European Funds

In accordance with Section 71 of Eufetv., the Directorate General for Audit of European Funds (further: “EUTAF”) provided support for the provision of secretarial and administrative

services in relation to the establishment of the Authority and provided the necessary infrastructure for a period of 6 months. Furthermore, EUTAF performed 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 fulfilment of the economic organisational tasks, the management tasks and the related responsibilities were laid down in a work-sharing agreement between the Integrity Authority and EUTAF dated 14 December 2022. In order to ensure full takeover of the organisational tasks, the work-sharing agreement has been extended, continuing to provide the management software and IT infrastructure by EUTAF until 30 September 2023. Beside these areas, the support provided by EUTAF on a daily basis and with due care has effectively ended, the Authority is self-sufficient and manages its own activities.

Settlement between the two institutions takes place in two stages. The first phase has already been completed and the Hungarian State Treasury has already paid the settlement amount to EUTAF. The second phase is expected to be settled in October 2023.

8. Anti-corruption Task Force

The Government's Response to the Annual Report of the Task Force for the calendar year 2022 was received on 24 May 2023.

According to the Government's Response, 15 out of the 31 consensual proposals will be included in the National Anti-Corruption Strategy for 2023–2026, 7 is already indicated in the work plan of the Task Force for the calendar year of 2023 and 9 is not addressed to the Government. In the latter case, the actual recipients were contacted by the Integrity Authority and information will be made available on the Task Force's official website⁵ after the next meeting. We note that the National Anti-Corruption Strategy for 2023–2026 is not yet issued. The lack of a published strategy will likely impact the Task Force's work and its 2023 reporting.

The Task Force's official website was launched on 5 July 2023.

A call for applications for the 3 vacant Anti-Corruption Task Force positions for non-governmental actors was published on 16 May 2023. Although the Authority itself promoted the call for application on its LinkedIn profile and also the non-governmental actors of the Task Force were asked to promote the call for applications several times, only 7 applications were received by the deadline of 30 June 2023 and were subject to a preliminary

⁵ <https://kemcs.hu/>

assessment by the Authority on the basis of the criteria set by the Eligibility Committee on 10 November 2022.

The Authority's preliminary assessment revealed that only one application was suitable, namely Dr. Gábor Kutasi delegated by the Hungarian Economic Society. The other applications were preliminary found to be unsuitable in view of their basic formal and substantive deficiencies.

Pursuant to Section 57 (5) of Eufetv, the Authority's Board of Directors shall select the members representing non-governmental actors from the list of candidates, taking into account the opinion of the Eligibility Committee. The Board of Directors approved the list of candidates to be sent to the Eligibility Committee for its opinion on 24 July 2023. At the request of the Eligibility Committee, all applications were forwarded to the Eligibility Committee on 3 August 2023. In its reply dated 18 August 2023, the Eligibility Committee indicated that it had no objections to the proposal on the basis of the list of candidates.

Therefore, the Authority's Board of Directors is now required to decide on the selection of the above mentioned candidate at the next Board meeting scheduled for 21 September, 2023.

The next Task Force meeting is planned for early October 2023, at which the Task Force is expected to decide, inter alia, on the following topics:

- New call for applications for the 2 vacant Task Force positions and its promotion;
- Proposing amendments to Eufetv. and its Rules of Procedure based on the experience of the recent operation of the Task Force, including the possibility of replacing members who have indicated in their application that they support an NGO, the possibility of the Task Force having its own budget, the possibility of remuneration of members, the possibility of electing a vice-chair from among the members representing state organs, possibility of the Ministry of European Union Affairs being a member.