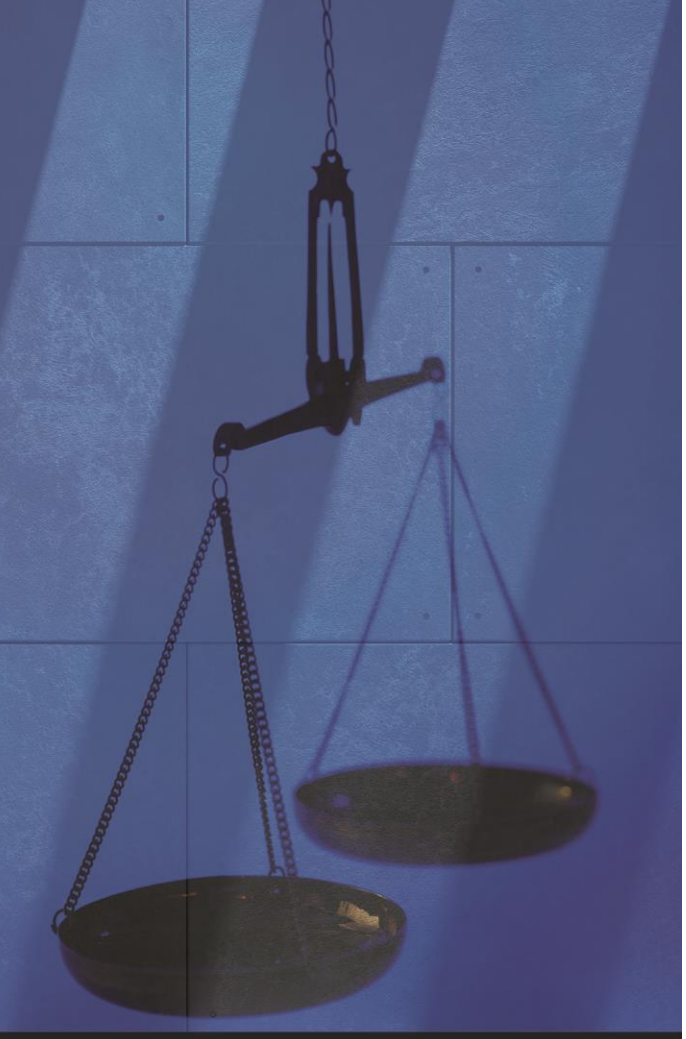

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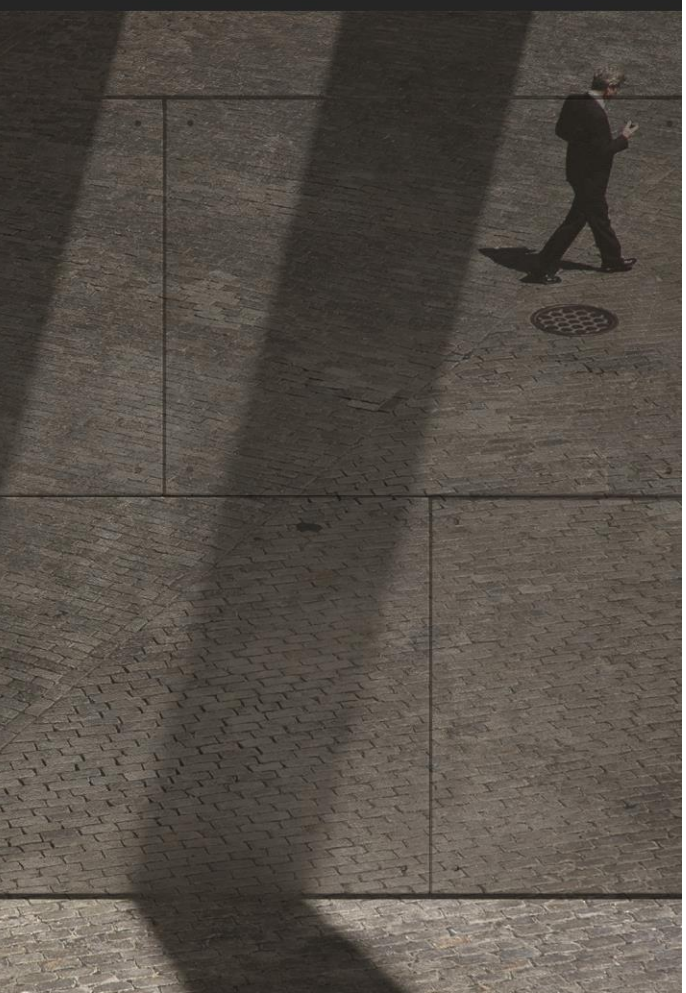

Implementing the OECD Anti-Bribery Convention

Phase 4 Two-Year Follow-Up Report: Hungary

Hungary – Phase 4

Two-Year Follow-Up Report

This report, submitted by Hungary, provides information on the progress made by Hungary in implementing the recommendations of its Phase 4 report. The OECD Working Group on Bribery's summary of and conclusions to the report were adopted on 16 June 2021.

The Phase 4 report evaluated and made recommendations on Hungary's implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions. It was adopted by the 44 members of the OECD Working Group on Bribery on 27 June 2019.

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Hungary Phase 4 – Two Year Written Follow-Up Report Summary and Conclusions

Summary of main findings[1]

1. In June 2021, Hungary presented its two-year written follow-up report to the OECD Working Group on Bribery (Working Group), outlining the steps taken to implement the recommendations received during the Phase 4 evaluation adopted in June 2019. In light of the information provided, the Working Group considers that Hungary has fully implemented 5 recommendations, partially implemented 4 recommendations and not implemented 23 recommendations. The Working Group welcomes the improvements to the definition of foreign public official and the adoption of the prosecutorial guidelines on corporate liability. The Working Group also commends Hungary on its efforts to increase the resources of the Central Investigation Office of the Public Prosecution Service (CIOPPS), and to provide training to the public and private sectors, noting the large-scale anti-corruption training programme that will start in 2021 and will feature foreign bribery and its detection and reporting as priority topics. Awareness-raising efforts among the private sector appear to be bearing their first fruits, with the recent detection of a possible foreign bribery and money laundering case via a suspicious activity report sent to the Hungarian financial intelligence unit (HFIU).

2. On the other hand, the Working Group is concerned about the great number of recommendations that remain to be implemented, particularly considering that 12 of the 23 recommendations that are not implemented stem from recommendations that date back from Phase 3. One such example is the implementation of the tax-related recommendations where no steps have been taken, with Hungary providing little information on this matter. While Hungary has provided a number of helpful clarifications on the protections granted to whistleblowers when their report triggers a criminal proceeding, no steps have yet been taken to address the major deficiencies in the country's whistleblower regime, including the limited protections against retaliation and the uncertainties pertaining to the protection of their identity. Hungary has also yet to conduct an assessment of its exposure to foreign bribery risks.

3. In Hungary's Phase 4 report, the Working Group raised concerns over the absence of enforcement of the foreign bribery offence since Phase 3, despite the risk of bribery of foreign public officials steadily increasing in Hungary, due to the growth in export activity, particularly by MNEs in the manufacturing sector. Two years later, the Working Group remains seriously concerned about the continued absence of enforcement efforts, with Hungary reporting no new investigations into foreign bribery. Hungary reported no new developments in relation to the allegations recorded in the Working Group's Matrix of foreign bribery allegations. To date, only one small-scale foreign bribery case has been concluded (resulting in the conviction of 26 natural persons between 2008 and 2011) since the entry into force of the Convention in Hungary. Regarding detection of foreign bribery, Hungary has yet to develop and implement a proactive strategy. As mentioned above, a possible case of money laundering linked to foreign bribery has been detected by the HFIU. The source was a suspicious activity report, and the HFIU forwarded the

[1] The evaluation team for this Phase 4 two-year written follow-up evaluation of Hungary was composed of lead examiners from **New Zealand** (Alexandria Mark, Policy Advisor, Policy Group, Ministry of Justice and Graham Gill, General Manager – Evaluation & Intelligence and Business Services, Serious Fraud Office) and the **Slovak Republic** (Silvia Matulova, Ministry of Finance of the Slovak Republic, Tax and Customs Department, Division for Legislation and Methodology of Accounting and Book-keeping and Attila Zajonc, Head of the Operational Department, National Crime Agency of the Police Force Presidium, Ministry of Interior) as well as members of the **OECD Anti-Corruption Division** (Ms. Solène Philippe, Evaluation Coordinator and Legal Analyst, Ms. Alejandra Tadeu and Ms. Sofia Tirini, Legal Analysts). See Phase 4 Procedures, paras 54-62 on the role of Lead Examiners and the Secretariat in the context of two-year written follow-up reports.

case to relevant investigative authorities on the grounds of suspicions of money laundering and foreign bribery. Hungary noted that relevant authorities have opened a criminal investigation and the money involved in this transaction has been seized.

4. Additionally, the Working Group remains concerned about recent reports by international and non-governmental organisations, including the European Commission and European Parliament, involving judicial independence and media freedom, as they relate to foreign bribery and follow-up issues 11.b. and 11.i. In particular, despite recent positive developments, the organisation of the judiciary system continues to generate a potential for judges to be specifically selected to individual cases, which may have an impact on the conclusion of foreign bribery cases.[2] [3] Furthermore, Hungarian media may currently not be operating in an environment conducive to the independent reporting of foreign bribery allegations.[4]

5. The Working Group's summary and conclusions with respect to specific Phase 4 recommendations are presented below. They should be read in conjunction with the report prepared by Hungary.[5]

Regarding the detection of foreign bribery in the government and private sectors:

- *Recommendation 1.a. – Not implemented.* Hungary has not yet taken any concrete steps to raise awareness in the public and private sectors of the benefits of an effective whistleblower system. In addition, based on the limited information available, the number of whistleblower reports made in Hungary does not seem to have increased in recent years. However, the authorities are planning to carry out activities aiming to raise awareness of the benefits of whistleblowing as part of a broader training programme on corruption and foreign bribery in the public and private sectors. The precise timeline for the implementation of the programme has not been communicated. Hungary also mentions that the transposition of the EU Whistleblower Directive,[6] which is due to be completed by the end of 2021, will be an opportunity to raise the awareness of these benefits.

[2] The international community has flagged issues caused by the concentration of power in the hands of the president of the National Judiciary's Office (NJO), who has responsibility for appointing the presidents of regional courts, who in turn decide on the allocation of individual cases to judges. See: Amnesty International, "Fearing the Unknown – How rising control is undermining judicial independence in Hungary" (2020); European Commission 2020 Rule of Law Report – Country Chapter on the rule of law situation in Hungary, SWD(2020)316 final (30.09.2020); and GRECO, 2020 Second Interim Compliance Report on Hungary.

[3] Concerns over Hungary's judicial independence, freedom of expression and corruption, among others, triggered the European Union's Article 7 proceedings on the basis of a serious risk to breaches of EU values and the rule of law. See, European Parliament News, "Rule of law in Hungary: Parliament calls on the EU to act (12.09.2018).

[4] While Hungary is of the view that its legislation grants sufficient safeguards to protect media freedom, reports by NGOs portray a worrying scenario of media censorship, use of government funds to finance certain media outlets and monopolise private advertisers and discrimination of other media in the access to government information. The European Commission has warned about a rising trend of media intimidation and obstruction and addressed the European Parliament on this topic on 10 March 2021. See: "Conclusions of the joint international press freedom mission to Hungary" (3 December 2019); EU 2020, Demanding on Democracy (Country & Trend Reports on Democratic Records by Civil Liberties Organisations Across the European Union) – Country report on Hungary by the Hungarian Civil Liberties Union, pp. 87-90; European Commission 2020 Rule of Law Report – Country Chapter on the rule of law situation in Hungary, SWD(2020)316 final (30.09.2020); RadioFreeEurope/Radio Liberty (16 February 2021), "Hungary Pulls Plug on Last Independent News Radio Station on the Air"; Press release European Parliament (10 March 2021), "MEPs express concerns over attacks on media in Poland, Hungary and Slovenia".

[5] DAF/WGB(2021)23

[6] Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law.

Limited details were provided on the format these transposition-related awareness-raising initiatives could take.

- *Recommendation 1.b. – Fully implemented*. Hungary clarified that any crime, including foreign bribery, can be reported under its whistleblower law (Act CLXV of 2013 on Complaints and Public Interest Disclosures). However, as soon as a criminal proceeding is initiated on this basis, Act CLXV ceases to apply and the report and the person having made the report starts to become subject to the criminal procedure rules, as well as to Act II of 2012 on regulatory offences, regulatory offence procedures and the system for registering regulatory offences, according to which any person who causes disadvantage to a whistleblower commits a regulatory offence.

- *Recommendation 1.c. – Partially implemented.* The Phase 4 report had highlighted the lack of clarity in the potential linkages between the three types of reporting channels for whistleblowers set out by Hungarian legislation – Ombudsman's channel; voluntary internal channels adopted by companies; and mandatory channels established by public authorities. In its two-year report, Hungary clarified that there is no connection between the three reporting channels, and that a report can be made to one or more channel, "if this is justified by its subject", and if channels are not used at the same time. However, these critical pieces of information on what constitutes overall a complex whistleblower regime do not appear to be communicated to potential whistleblowers, e.g. through awareness-raising steps or guidance.

- *Recommendation 1.d. – Not implemented.* Hungary clarified that, in case a whistleblower report triggers a criminal proceeding, the Criminal Code of Procedure (CCP) guarantees the anonymity of the whistleblower. However, if the whistleblower report does not trigger a criminal proceeding, then the provisions of Act CLXV of 2013 apply. These rules, which were considered insufficient in the Phase 4 report, have not been amended.

- *Recommendation 1.e. – Not implemented.* Hungary did not take any step to ensure that whistleblowers are effectively protected against retaliation. The Phase 4 report had found that, critically, legislation did not contain clear protections against retaliation for whistleblowers and, in any case, there did not appear to be sanctions for retaliation. This was considered to be a major obstacle to the effective functioning of Hungary's whistleblowing regime.

Regarding the detection of foreign bribery in the government sector:

- *Recommendation 2.a. – Not implemented.* Hungary has not yet taken concrete steps to raise awareness and develop policies and procedures on the legal obligation of public officials to report foreign bribery to the law enforcement authorities. The National Protective Service is developing an ambitious training programme focusing on international bribery, including the obligation to report foreign bribery. The trainings will take place in 2021 and 2022 and target nearly 1 400 people from the public sector and from companies. There are also plans to distribute knowledge materials on the reporting obligation to public sector staff and companies. These initiatives, while a very positive development, are currently in the preparatory stage and have yet to be implemented. Additionally, Hungary has provided no information regarding the policies and procedures on the legal obligation of public officials to report foreign bribery suspicions to law enforcement authorities.

- *Recommendation 2.b. – Partially implemented.* Hungary has taken some steps to ensure that public agencies working with Hungarian companies operating abroad develop training programmes for their staff focusing on foreign bribery. The Hungarian Export Promotion Agency (HEPA) organised a training programme for its staff on risk management of foreign bribery and awareness-

raising regarding compliance, in cooperation with the Ministry of Foreign Affairs and Trade in November 2019. No other agencies were reported as having developed training programmes focusing on foreign bribery, but the large scale training that was referred to under recommendation 2.a. will target a large number of public sector employees. However, this planned training will not target staff from the HFIU and only limited staff from the National Tax and Customs Administration (NTCA) will be invited to a limited number of sessions.

- *Recommendation 2.c. – Not implemented.* Hungary has not taken clear steps to provide staff of its official export credit agencies (Eximbank and MEHIB) with training and awareness-raising activities to help them identify and address instances of potential bribery of foreign public officials by applicants and clients. Some anti-corruption training was provided in 2020 to a large number of Eximbank and MEHIB employees and managers, but it is unclear to what extent how to detect foreign bribery, and what to do when foreign bribery has been detected, were specifically covered by this programme. MEHIB and Eximbank are developing an e-training initiative for their personnel that seems to be placing more emphasis on corruption detection. This initiative is however yet to be implemented.

- *Recommendation 2.d. – Not implemented.* Hungary has not yet taken any measures to make foreign representations aware of the foreign bribery risks faced by Hungarian companies operating abroad, including by reviewing local media sources for allegations, as well as of their obligation to report such information to the relevant authorities in Hungary. Some awareness-raising in the form of e-training is planned to be provided to the personnel of "six HEPA foreign representations" as of September 2021. The content of the training is not described, and whether it will be provided to all relevant categories of foreign representations personnel remains unclear.

Regarding the detection of foreign bribery by the private sector and civil society:

- *Recommendation 3 – Not implemented.* The Hungarian Chamber of Auditors has provided non-mandatory training on "anti-corruption and anti-bribery measures" to auditors since the adoption of the Phase 4 report. Hungary reported that this training will become mandatory "in 2021". Hungary stated that the training specifically covered foreign bribery, however, no evidence was submitted to the evaluation team to confirm this. Therefore, it remains unclear whether and to what extent this annual training programme specifically covers foreign bribery, as required by the recommendation.

Regarding the detection and investigation of foreign bribery by competent authorities:

- *Recommendation 4.a. – Not implemented.* Hungary has yet to provide clear information about any steps taken to assess the foreign bribery risk exposure of its companies. The Phase 4 report had noted the presence of significant foreign bribery risk factors in Hungary, which were largely related to MNEs increasingly carrying out exportation activities from Hungary in a number of high-risk sectors. This contrasted with the widespread perception among authorities and in the private sector that the foreign bribery risks are low in Hungary, as well as with the absence of enforcement of the foreign bribery offence in the country.

- *Recommendation 4.b. – Not implemented.* While Hungary reported a number of steps that may have a positive impact on foreign bribery detection (e.g. training to law enforcement and prosecutors and the private sector, and mapping of foreign bribery risks faced by public authorities), most of them are yet to take place, and their impact is yet to be assessed. In any case these measures do not amount to a strategy for proactively detecting and investigating foreign bribery cases.

- *Recommendation 4.c. – Not implemented.* While Hungary reports that a high level of priority would be given to a foreign bribery case were it to arise, in the absence of relevant practice, this remains to be assessed.

- *Recommendation 4.d. – Fully implemented.* Hungary increased the level of resources and expertise available to the authority in charge of investigating and prosecuting foreign bribery (CIOPPS), including by transferring 14 additional prosecutors to the CIOPPS in February 2021, providing training on new investigative techniques, and enhancing the CIOPPS's training system. Further positive steps are expected to be taken shortly, including additional training and the conclusion of cooperation agreements with the Ministry of Interior to facilitate access to its investigative resources and tools.

- *Recommendation 4.e. – Fully implemented.* The HFIU took steps to raise the awareness of the reporting entities and its staff of the risks associated with the laundering of foreign bribery, including by providing lists of red flags indicators. In addition, the HFIU reported that, for the first time, a potential case of foreign bribery-related money laundering was detected in Hungary through its anti-money laundering mechanisms, which the HFIU attributes to its recent awareness-raising efforts.

Regarding the detection, investigation and prosecution of foreign bribery cases using tax information:

- *Recommendations 5.a. and 5.b – Not implemented.* Hungary has not taken any concrete steps to establish an effective legal and administrative framework to facilitate the reporting by tax authorities of suspicions of foreign bribery arising out of the performance of their duties to the CIOPPS, and to provide guidance to the tax authorities to facilitate such reporting. Hungary informed that these issues are "under discussion".

- *Recommendation 5.c. – Not implemented.* Hungary has not taken any steps to implement this longstanding recommendation on providing training for tax officials on how to detect bribes to foreign public officials concealed as deductible expenses for tax purposes, including commissions, and use the OECD *Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors* for this purpose.

- *Recommendation 5.d. – Not implemented.* Hungary has not taken any steps since the adoption of the Phase 4 report to ensure that the NTCA is informed forthwith of all foreign bribery convictions in order that it may determine whether it is appropriate to retroactively deny the tax deductibility of any expenditures representing bribery payments. Hungary recalled its communication obligations pursuant to section 59 of Act LIII of 2017 on the prevention of money laundering and financing terrorism, which were already in force in Phase 4, and were considered inadequate at the time.

Regarding the investigation and prosecution of foreign bribery:

- *Recommendation 6.a. – Fully implemented.* Hungary amended the definition of foreign public official under article 459(1) of the Criminal Code via Act XLIII of 2020, which entered into force on 1 January 2021, to expressly clarify that it covers a person performing services or tasks related to the exercise of public authority in a foreign county, including at a state-owned or municipality-owned enterprise. The amendment of the definition of foreign public officials is a welcomed development. Hungary reports that the current legal definition of publicly owned company includes companies where the state, regional bodies of government or public foundations have a

"majority influence". The definition of "majority influence" under section 8:2 of the Civil Code is in line with the Convention's definition of direct or indirect exercise of dominant influence by a government.

- *Recommendation 6.b. – Not implemented.* Hungary has taken no steps to extend the two-year investigation time limit for foreign bribery offences in a manner that ensures there is adequate time to apply investigative measures to natural persons in highly complex multijurisdictional cases.

- *Recommendation 6.c. – Not implemented.* The Constitutional Court's decision 3384/2018 takes into consideration amendments to the CCP to conclude that the definition of "victim" of a crime has been broadened by the introduction of the concept of direct infringement. The Constitutional Court surmises that a broader definition of victim must necessarily entail a broader interpretation in relation to who can act as a substitute private prosecutor in a criminal procedure. The Constitutional Court's decision supersedes the existing Supreme Court's Opinion #90, and must be followed by courts. Although this can be considered as a positive development in terms of interpretation of the legal provisions, it is not clear how jurisprudence will evolve in the specific matter of the substitute private prosecutor applying to persons affected by foreign bribery. Additionally, although this information was not made available at the time of Phase 4, the Constitutional Court's decision precedes the evaluation and therefore there have not been any developments in Hungary regarding this matter since the adoption of the report, in terms of neither jurisprudence, nor specifically foreign bribery cases.

- *Recommendation 6.d. – Partially implemented.* Hungary provided updated data on confiscation imposed in domestic bribery cases in 2019 and 2020, as well as the percentage those cases represented in the total amount of convictions for bribery offences in the same period of time. Hungary also provided data collected by the Asset Recovery Office regarding the total amount of assets seized in the context of police investigations into bribery allegations in the same years. However, no data was provided regarding legal persons. Hungary also did not provide data on the amounts of confiscation imposed and the value of properties confiscated, as this information is not collected in a centralised manner.

Regarding the investigation and prosecution of foreign bribery cases allegedly involving Hungarian officials benefitting from immunities:

- *Recommendation 7.a. – Not implemented.* The Phase 4 report noted that individuals benefitting from immunities cannot be subject to a number of investigative measures, including interrogation, and the high evidentiary threshold to bring a motion to lift immunity may reveal problematic in complex multijurisdictional cases. Hungary reported that since Phase 4 there have been two instances where immunity was successfully lifted in bribery cases involving Hungarian MPs. One of these cases led to charges being brought against the MP involved for bribery in judicial proceedings. However, no information was provided regarding the overall number of motions to lift immunity, and whether any were rejected, and therefore it is not possible to assess if this constitutes a development. No actual measures were taken to address the recommendation.

- *Recommendation 7.b. – Not implemented.* Hungary has taken no steps to ensure it can effectively respond to MLA requests from Parties to the Convention when officials benefitting from immunities are allegedly at the receiving end of foreign bribery offences. Hungary reports that it has not received any MLA requests involving such individuals since Phase 4, thus an assessment of such a response is also not possible.

Regarding the provision of MLA pursuant to requests from other Parties to the Convention:

- *Recommendation 8.a. – Not implemented.* Hungary has yet to implement a mechanism to track incoming and outgoing MLA requests and, therefore, there is no available information on MLA requests related to foreign bribery. Regarding extradition, the International Law Enforcement Cooperation Centre keeps annual statistics and Hungary reports no extradition cases involving the foreign bribery offence in 2020. The data provided does not allow an assessment on the expediency of these proceedings. Hungary provided information regarding extradition requests under the jurisdiction of the judiciary. However, there is no available information on the underlying offences.

- *Recommendation 8.b. – Not implemented.* Hungary did not adopt any measures to respond without undue delay to MLA requests regarding information about Hungarian nationals. Additionally, even though Hungary reports that nationality plays no role in the expediency of proceedings, the country did not provide any statistics or other data that allows for an assessment in practice and, in particular, in relation to Hungarian nationals.

- *Recommendation 8.c. – Not implemented.* Hungary has not taken concrete steps to ensure that the reasons for refusing MLA requests are interpreted in line with Article 9.1 of the Convention, beyond noting that refusal of MLA requests is a rare occurrence.

Regarding corporate responsibility for foreign bribery:

- *Recommendation 9.a. – Fully implemented.* The reluctance of prosecutors to establish criminal liability of legal persons in foreign bribery cases was considered one of the most serious challenges that Hungary was facing, at the time of the Phase 4 report, regarding the implementation of the Convention. As already noted in Hungary's one-year written report in October 2020, a Circular by the Hungarian Deputy Prosecutor General on the measures applicable to legal persons under criminal law, which includes guidance on criteria required to be met for these measures to apply, would make it de facto mandatory to seek sanctions for legal persons in foreign bribery cases.

- *Recommendation 9.b. – Partially implemented.* As already reported by Hungary in its one-year written report in October 2020, the Ministry of Justice has initiated a comprehensive review of Act CIV of 2001 on the liability of legal persons. While this legislative review is a positive development, it remains unclear whether it is considering the possible establishment of minimum standards on what constitutes "appropriate supervision" by persons whose actions can subject a legal person to liability for foreign bribery. Moreover, neither civil society nor business representatives appear to have been included in the consultation process of the review and no confirmation on the dates for the next steps has been provided by Hungary.

Regarding engagement with the private sector on managing foreign bribery risks:

- *Recommendation 10.a. – Not implemented.* Hungary has not taken clear steps to increase the awareness of all companies that engage in exports, including subsidiaries of MNEs, regarding their foreign bribery risks, and to encourage them further to adopt effective anti-foreign bribery measures for managing those risks. While Eximbank and MEHIB have provided useful information in this respect to their new customers since February 2020, no other initiatives seems to have been taken by other parts of the government, including the Ministry of Foreign Affairs and Trade of Hungary. Hungary has not demonstrated that the awareness of all companies that engage in exports, including subsidiaries of MNEs, regarding their foreign bribery risks has improved.

- *Recommendation 10.b. – Not implemented.* Since Phase 4, Hungary has not taken any steps to raise

awareness among the private sector that bribes paid to foreign public officials are not tax-deductible.

Dissemination of the Phase 4 Report

- Hungary indicates that the Phase 4 report was published on the government's official website and was discussed with relevant ministries, including during a meeting of the national coordination centre for OECD-related work, which is part of the Ministry of Finance. Moreover, the coordination centre published an article about the Phase 4 report in a Hungarian magazine about the OECD called "OECD Outlook" (OECD Figyelő Magazin).

Conclusions of the Working Group on Bribery

6. Based on these findings, the Working Group concludes that of Hungary's recommendations, 5 have been fully implemented (recommendations 1(b), 4(d), 4(e), 6(a) and 9(a)); 4 have been partially implemented (recommendations 1(c), 2(b), 6(d) and 9(b)); and 23 have not been implemented (recommendations 1(a), 1(d), 1(e), 2(a), 2(c), 2(d), 3, 4(a), 4(b), 4(c), 5(a), 5(b), 5(c), 5(d), 6(b), 6(c), 7(a), 7(b), 8(a), 8(b), 8(c), 10(a) and 10(b)). The Working Group raises serious concerns over the lack of foreign bribery enforcement in Hungary, the overall lack of implementation of the recommendations from the Phase 4 report, and the impact of the situation of judicial independence and media freedom on the country's capacity to detect and enforce the bribery offence effectively, and will proceed to issue a public statement on these matters.

Hungary is invited to provide an additional written report to the Working Group in one year (June 2022) in order to update the Working Group on the status of foreign bribery enforcement, as well as the level of implementation of recommendations 1(a)(c-e), 2(a), 4(a-c), 6(b)(c) and 9(b). At the time of this report, Hungary may ask for any other recommendation to be re-assessed as foreseen under para. 60 of the Phase 4 procedures. Finally, the Working Group will continue to monitor follow-up issues 11.a.-11.g. and 11.i.-11.l. as case law and practice develop.

Annex I – Phase 4 Evaluation of Hungary: Written Follow-Up Report by Hungary

Instructions

This document seeks to obtain information on the progress each participating country has made in implementing the recommendations of its Phase 4 evaluation report. Countries are asked to answer all recommendations as completely as possible. Further details concerning the written follow-up process is in the Phase 4 Evaluation Procedure (paragraphs 51-59 and Annex 8) as updated in December 2019.

*Please submit completed answers to the Secretariat on or before **15 March 2021**.*

Name of country: **HUNGARY**

Date of approval of Phase 4 evaluation report: **27 June 2019**

Date of information: **15 March 2021**

PART I: RECOMMENDATIONS FOR ACTION

Regarding Part I, 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 that have not yet been met. For each recommendation, separate space has been allocated for describing future situations or policy intentions.

Recommendations regarding detection of foreign bribery

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:
In 2021 National Protective Service (NPS) begins the implementation of the training project entitled "Anti-corruption trainings, especially in the field of international bribery" financed from the Internal Security Fund. As part of the project, NPS is planning a wide-ranging training program for the public

sector (foreign affairs staff, judges, prosecutors, police officers, public administration staff) and companies to transfer knowledge about the obligation to report international bribery and about the liability of legal entities for international bribery. The project is planned to involve nearly 1,400 people in 34 trainings.

As part of the project the role of whistleblower systems will be emphasized during the following trainings.

- One-day mandatory training for domestic MFA staff focusing on internal control system and integrated risk management system (400 officials).
- Foregin bribery focused further training for commercial attachés (100 officials) and foreign bribery focused training held for the staff preparing for diplomatic missions (150 officials).
- Further training for police officers focusing on forein bribery and on detecting corruption related crimes (A three-day training for 70 law enforcement officers).
- One-day training for business actors focusing on foreign bribery.

In this respect, Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (hereinafter: Directive (EU) 2019/1937) holds significance. Pursuant to this directive, the member states shall enact those provisions set out in the laws, decrees and administrative decisions which are necessary for their compliance with the Directive (EU) 2019/1937 until 17 December 2021.

According to the national regulations that are mostly in harmony with the provisions set out in the Directive (EU) 2019/1937, i.e. Section 4(1) of Act CLXV of 2013 on Complaints and Public Interest Disclosures (hereinafter: Act CLXV of 2013), the Commissioner for Fundamental Rights shall ensure the operation of the electronic system for making and recording public interest disclosures.

However, the Directive (EU) 2019/1937 contains a number of provisions, including but not limited to the personal and objective effect of the Directive (EU) 2019/1937; the obligation to create internal reporting channels; the issue of cooperation, information flow and coordination between the internal and external reporting channels; extending the scope of legal aid and supporting measures that the whistleblower is entitled to; the issue of the burden of proof that is transferred from the person who suffers retaliation to the person who performs the adverse action; the question of coordinating administrative or labour law criminal sanctions, the legislative decision on which may also affect the objective and personal frameworks, as well as the procedures of the institution of the Office of the Commissioner for Fundamental Rights (AJBH).

In the course of the transposition of the Directive (EU) 2019/1937, it is possible to realise the objectives indicated in this chapter and those that are mentioned above. The negotiations related to the transposition have already begun with the Minister of Justice (MoJ) responsible for transposition. It is related to this, and after this, that the relevant statutory changes may be initiated and formulated. As long as related tasks emerge for AJBH, the elaboration of a respective communication strategy may be justified.

If no action has been taken to implement recommendation 1(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:

As it was mentioned above, pursuant to Directive (EU) 2019/1937, the member states shall enact those provisions set out in the laws, decrees and administrative decisions which are necessary for

their compliance with the Directive until 17 December 2021. Related to this, we are going to make our proposals during the negotiations with MoJ.

Text of recommendation 1(b):

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:

b. Clarify that the whistleblower system applies to the reporting of suspicions of foreign bribery. [2009 Recommendation IX, iii)]

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

The effective Hungarian regulation, i.e. Act CLXV of 2013, shall ensure the operation of the electronic system for making and recording public interest disclosures, does not allow this.
During the compliance procedure in line with the provisions of Directive (EU) 2019/1937, it is possible to incorporate the appropriate legal provisions into the Hungarian legal system.
However, the Commissioner and the AJBH are not legislative bodies, so they are only entitled to make proposals.

The concept of public interest disclosures is defined by the Act CLXV of 2013. Pursuant to Section 1(4) of the Act CLXV of 2013, 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"). According to Section 1(5) of the Act CLXV of 2013, 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. It is also important to stress, that the Act CLXV of 2013 is such an ancillary legislation, the application of which is justified if no proceedings under another regime arise in connection with the case. Therefore, in case of initiating other proceedings, such as criminal proceedings, the rules of Act CLXV of 2013 do not apply.

Based on the above, if a disclosure related to a criminal offense is submitted to a body entitled to prosecute (ie. to an investigating authority, prosecutor), the body will assess it not as a public interest disclosure but as a crime report to initiate criminal proceedings, based on the principle of substantive assessment applicable in criminal proceedings. In this case, the rules of criminal proceedings shall be applied for the notifier (who is the whistleblower in this case). If a public interest disclosure related to a criminal offense is not submitted to a body entitled to prosecute, it shall be referred to the body entitled to prosecute (ie. in case of a criminal offense to the investigating authority, prosecutor) in accordance with Section 1(5) of Act CLXV of 2013. This body also examines the disclosure whether it qualifies as a crime report or not.

If the above referring does not take place for any reason (for example, if it is not clear at the time of making the public interest disclosure whether it is a disclosure of a criminal offense), the examination concerning the public interest disclosure should be carried out under Act CLXV of 2013. If the nature of the crime becomes clear during this proceeding, one way to deal with the public interest disclosure could be, for example, to file a crime report and initiate the criminal proceedings.

In the light of above, the person who disclose the crime – such as bribery or other corruption offenses – is under the scope of Act CLXV of 2013 as long as his/her disclosure is treated as a public interest disclosure (ie. typically until the time then the public interest disclosure is forwarded to the body entitled to adjudicate the criminal offense). For this time, the protection of whistleblower arising from Act CLXV of 2013 shall be applied to him/her. However, the whistleblower is excluded from the scope of Act CLXV of 2013 from the beginning of initiation the criminal proceedings and the rules of and the protection applied in criminal proceedings shall be applied to him/her, which is more specific and broader than the Act CLXV of 2013 due to the nature of criminal proceedings.

Section 13-14 of the Act CLXV of 2013 states that in order to operate lawfully and prudently, the employer and the owners operating in the form of a company (hereinafter jointly referred to as employer organization) may set up whistleblowing systems (hereinafter referred to whistleblowing system) for reporting violations of the law. Within the framework of which employees of the employer, persons having a contractual relationship with the employer organization or persons having a legitimate interest in making a whistleblowing report or in remedying or terminating the conduct concerned may make the disclosure. The operation of the whistleblowing system is not mandatory but optional, it cannot be enforced.

In case of operation of a whistleblowing system, the employer organization is obliged to investigate the disclosure. If the conduct contained in the disclosure justifies the initiation of criminal proceedings on the basis of the investigation, action shall be taken to file a crime report. Thereafter, the rules of criminal proceedings shall apply to the applicant.

If no action has been taken to implement recommendation 1(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:

Pursuant to Directive (EU) 2019/1937, the member states shall enact those provisions set out in the laws, decrees and administrative decisions which are necessary for their compliance with the Directive until 17 December 2021. Related to this, the Commissioner for Fundamental Rights is going to make our proposals during the negotiations with the MoJ.

Text of recommendation 1(c):

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:

c. Clarify how the three reporting channels – the Ombudsman, Employer Channel, and System of Integrity Management of Public Administration Bodies – interact. [2009 Recommendation IX, iii)]

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

The three systems are independent of each other, they have no connection point. It is also important to underline that, for example, the operation of the “Employer Channel” is not mandatory. The

Ombudsman is not obliged to deal with matters falling within the competence of the employer organization under the legislation in force.

The Act CLXV of 2013 regulates the employer abuse disclosure system and the electronic system operated by the Commissioner for Fundamental Rights for the making and recording of public interest disclosures.

Pursuant to this law, the employer may establish rules of conduct for its employees protecting the public interest or a strong private interest, which the employer is obliged to disclose along with the description of the related procedure in a way that is accessible to anybody. In the case of the violation of these rules, the employees and those who have a contractual relationship with the organisation, or such persons who have a reasonable legitimate interest in making the disclosure, or the remedying or termination of the conduct that is the subject of the disclosure may make a report via the employer abuse disclosure system. The disclosures are investigated into on the basis of the internal rules of procedure.

Public interest disclosures draw attention to such a circumstance whose remedying or termination serves the interests of the community or society as a whole. A public interest disclosure may also contain a proposal. The Commissioner for Fundamental Rights ensures the operation of the electronic system for the making and recoding of public interest disclosures. The Commissioner forwards the public interest disclosures to the administrative bodies concerned via this system, which investigate into the problem and provide information on the outcome of the investigation via this system too. The Commissioner also has other authorisations in the field of public interest disclosures. After the public interest disclosure has been investigated into by the entity authorised to do so, in order to remedy the impropriety that they have presumed, may turn to the Commissioner with a petition if they think that the disclosure has not been comprehensively investigated into by the acting authority, or if they do not agree with the outcome of the investigation, or if they deem the disclosure unsubstantiated. Based on the petition, the Commissioner conducts an investigation, then if he establishes an impropriety, he may make a recommendation for remedying it to the organisation concerned, or to the supervisory organ thereof. Furthermore, the Commissioner may also launch an investigation ex officio, on the review of the procedure conducted by the acting authorities in the handling of public interest disclosures.

Pursuant to Government Decree No. 50/2013. (II.25.) on the system of integrity management at public administration bodies and the procedural rules of receiving lobbyists, the head of the administrative body shall ensure the reception and investigation of the reports concerning the integrity and corruption risks related to the operation of the organisation, in the context of which they prepare internal rules. The integrity advisor, if authorised by the head of the official organisation, performs the tasks related to the reception and investigation of disclosures regarding the integrity and corruption risks related to the operation of the organisation on the basis of the internal rules.

Some disclosures may be made to more than one of the three systems if this is justified by their subject, where they are investigated into on the basis of the relevant rules. Of course, in order to avoid parallel procedures, this is only possible with one system at a time. However, in line with the effective regulations, there is currently no connection between the three systems.

During the implementation of Directive (EU) 2019/1937, it becomes possible to clarify the mutual relationship of these channels on the level of the law.

If no action has been taken to implement recommendation 1(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:

Pursuant to Directive (EU) 2019/1937, the member states shall enact those provisions set out in the laws, decrees and administrative decisions which are necessary for their compliance with the Directive until 17 December 2021. Related to this, we are going to make our proposals on this subject during the negotiations with the MoJ.

Text of recommendation 1(d):

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:

d. Ensure that measures for protecting the identity of whistleblowers are effective. [2009 Recommendation IX, iii)]

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

The effective Hungarian regulation, i.e. Act CLXV of 2013, according to which the Commissioner for Fundamental Rights shall ensure the operation of the electronic system for making and recording public interest disclosures, allows the whistleblowers to remain anonymous towards the investigating authorities. Based on this, almost 80% of the whistleblowers requested this option in 2020.

According to the Act CLXV of 2013, any action taken as a result of a public interest disclosure which may cause disadvantage to the whistleblower shall be unlawful even if it were otherwise lawful. A whistleblower is considered to be at risk, if the disadvantages threatening him/her as a result of the public interest disclosure he/she has made are likely to seriously endanger his/her life circumstances.
Any whistleblower who is a natural person is entitled to aids provided to ensure the protection of whistleblowers, as defined in the relevant law, if he/she is likely to be at risk. The state provides whistleblowers the aids defined in the Act LXXX of 2003 on Legal Aid (hereinafter: Legal Aid Act), under the conditions defined in the same act.

According to Section 206/A (Persecution of the whistleblower) of the Act II of 2012 on regulatory offences, offence procedures and the system for registering regulatory offences (hereinafter: Act II of 2012), any person who causes disadvantage to the whistleblower commits an offence. The police shall have competence in the procedure. During the implementation of Directive (EU) 2019/1937, it becomes possible to increase the scope of the available means as well.

Hungary has specific legislation in place to protect whistleblowers. According to the Act CXI of 2011 on the Commissioner for Fundamental Rights and the Act CLXV of 2013, the Commissioner ensures – through his Office – the operation of an electronic system for making and recording public interest disclosures. Public interest disclosures can be made through the electronic system (on the platform established for this purpose on the Office's website), or in person at the Client Service. Pursuant to Section 3(3) of Act CLXV of 2013, 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.

Pursuant to Section 6(1) of Act CLXV of 2013, 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. Section 6(2) of Act CLXV of 2013 stipulates that 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.

The discloser may request that his/her submission be treated anonymously. The Commissioner makes the disclosure and its annexes or the anonymized extract accessible to the body authorized to investigate (the "acting body") in the electronic system within 8 days after submission. The acting bodies record the information on their (interim and meaningful) measures taken during their investigation in the electronic system within 30 days from receiving the public disclosure. The whistleblower may follow the investigation of his/her disclosure on the webpage and may query the status of his/her case. In addition to that, the brief excerpt of the disclosure (the so-called "public excerpt"), without personal data, is accessible to everybody.

After the inquiry of the public interest disclosure, the whistleblower may submit a petition requesting the Commissioner to remedy a perceived impropriety if the acting body found his/her disclosure unsubstantiated, or the whistleblower does not agree with the result of the investigation, or the acting body did not fully examine his/her disclosure. The Commissioner may investigate the practice of acting bodies examining public interest disclosures ex officio as well. If, based on the investigation, the Commissioner finds improprieties, he/she may make recommendations for remedying them in the case of those involved, or their superior body.

As a general rule any action taken as a result of a public interest disclosure which may cause disadvantage to the whistleblower shall be unlawful even if it was otherwise lawful. The state provides whistleblowers aids defined Legal Aid Act.

Aggregate experience in the application of the law is not available to the Government, given the fact that complaints and public interest disclosures are handled by state bodies and local self-government bodies (under their own authority) in accordance with Section 1(1) of Act CLXV of 2013. No summary information is prepared on this issue and this activity is not controlled by the Government.

Concerning the criminal proceedings, it has to be mentioned that the court, prosecution service or investigating authority may permit accessing any personal or protected data processed in a criminal proceeding only under the provisions of an Act. In order to ensure this, a new provision was inserted to the Act XC of 2017 on the Code of Criminal Proceedings (hereinafter: CCP) which entered into force from 1 January 2021. According to point c) of Section 98 (2a), for the purpose of the protection of public interest discloser determined in the Act CLXV of 2013, document concerning public interest disclosure shall be processed in a confidential manner until the interrogation of the public interest discloser.

If no action has been taken to implement recommendation 1(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:

Pursuant to Directive (EU) 2019/1937, the member states shall enact those provisions set out in the laws, decrees and administrative decisions which are necessary for their compliance with the Directive until 17 December 2021. Related to this, the Commissioner for Fundamental Rights is going to make proposals on this subject during the negotiations with the MoJ.

Text of recommendation 1(e):

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:

e. Provide an appropriate mechanism for redressing acts of retaliation against public and private sector employees who report in good faith and on reasonable grounds to the competent authorities suspected acts of foreign bribery. [2009 Recommendation IX, iii)]

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

According to the Act CLXV of 2013, any action taken as a result of a public interest disclosure which may cause disadvantage to the whistleblower shall be unlawful even if it were otherwise lawful. A whistleblower is considered to be at risk, if the disadvantages threatening him/her as a result of the public interest disclosure he/she has made are likely to seriously endanger his/her life circumstances.
Any whistleblower who is a natural person is entitled to aids provided to ensure the protection of whistleblowers, as defined in the relevant law, if he/she is likely to be at risk. The state provides whistleblowers the aids defined in Legal Aid Act, under the conditions defined in the same act.

According to Section 206/A of the Act II of 2012 (Persecution of the whistleblower), any person who causes disadvantage to the whistleblower commits an offence. The police shall have competence in the procedure.

During the implementation of Directive (EU) 2019/1937, it becomes possible to increase the scope of the available means as well.

Pursuant to Section 3(2) of Act CLXV of 2013, 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. According to Section 3(3) of Act CLXV of 2013, 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.

Section 3(4) of Act CLXV of 2013 provides for an exception, according to which 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.

If no action has been taken to implement recommendation 1(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:

Pursuant to Directive (EU) 2019/1937, the member states shall enact those provisions set out in the laws, decrees and administrative decisions which are necessary for their compliance with the Directive until 17 December 2021. Related to this, the Commissioner for Fundamental Rights is going to make our proposals on this subject during the negotiations with the MoJ.

Directive (EU) 2019/1937 is expected to be adapted in 2021.

Text of recommendation 2(a):

2. Regarding **the detection of foreign bribery in the government sector**, the Working Group recommends that Hungary:

a. Fully implement the Phase 3 recommendation to raise awareness and develop policies and procedures on the legal obligation of public officials to report foreign bribery to the law enforcement authorities. [2009 Recommendation III. i); and IX. ii)]

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

According to Section 300(1) of Chapter XXVII („Corruption relted criminal offences") of the Act C of 2012 on the Criminal Code (hereinafter: CC), a public officer who, obtaining in his official capacity credible knowledge of the commission of an undiscovered criminal offence of active bribery, passive bribery, active bribery regarding a public officer, passive bribery regarding a public officer, active bribery in a court or in authority proceedings, passive bribery in a court or in authority proceedings, active trading in influence or passive trading in influence fails to report it to the authorities as soon as he can is guilty of a felony and shall be punished by imprisonment for up to three years.

Therefore in Hungary, public officers have the obligation in general to report corruption offenses. This obligation is not differentiated based on the domestic or foreign nature of the act, it applies to both cases. CC allows only a narrow exception to this obligation, according to Section 300(2), a relative of the perpetrator shall not be liable to punishment for failure to report a corruption criminal offence.

Section 30 point f) of CCP puts the investigation of the above mentioned felonies under the exclusive competence of the prosecutor's office.

Police is making efforts to extend the use of covert investigation on crimes of corruption, and during procedures uses whistleblowers and case-by-case informants.

In procedures in connection with public officials the Public Prosecutor's Office and the Department Civil Defence is entitled to proceed, so they are able to offer more concrete details on preventing and investigating these crimes.

Also In 2021 NPS begins the implementation of the training project entitled "Anti-corruption trainings, especially in the field of international bribery" financed from the Internal Security Fund. As part of the project, we are planning a wide-ranging training program for the public sector (foreign affairs staff, judges, prosecutors, police officers, public administration staff) and companies to transfer knowledge about the obligation to report international bribery and about the liability of legal entities for international bribery. The project is planned to involve nearly 1,400 people in 34 trainings.

Hungary's commitment to implementing the key recommendations of the OECD Anti- Bribery Working Group is reflected by the effort to carry out them among the measures of the governmental strategic document on anti-corruption, titled National Anti-Corruption Strategy (NACS). Para 16 of Government Decision 1328/2020. (VI.19.) implementing NACS defines the following measures:

„Considering the recommendations of the OECD Anti-Bribery Working Group, the Minister of Interior, the Minister of Foreign Economy and Foreign Affairs and the Minister of Finance should distribute knowledge about the reporting obligation regarding the bribery of a foreign official, and about international bribery of legal entities, among the institutions of the public sector, the actors of business life, especially SME's, and work out the related training programmes."

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. Regarding **the detection of foreign bribery in the government sector**, the Working Group recommends that Hungary:

b. Fully implement the Phase 3 recommendation to ensure that public agencies working with Hungarian companies operating abroad develop training programmes for their staff focusing on foreign bribery. [2009 Recommendation III. i)]

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

HEPA has organised a training programme for its staff focusing on risk management of foreign bribery and rising awareness regarding compliance in November 2019, in cooperation with the Ministry of Foreign Affairs and Trade of Hungary. In 2021 an e-learning course for HEPA staff covering this topic is under development.

EXIM - Considering that the recommendation was issued in 2019 when appropriate regulation and training material were not yet available, the Law Office of Eximbank gave presentations for the first time in the 1st quarter of 2020 to employees involved in lending processes as well as to the members of the management.

At the same time a written anti-corruption education material was prepared. The education will take the form of e-learning and end with test questions. The aim of the training material is to present the most important features of each corruption crime and the processes used by Eximbank. E-learning is planned to be done in 2021.

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. Regarding **the detection of foreign bribery in the government sector**, the Working Group recommends that Hungary:

c. As a matter or priority provide staff of its official export credit agencies with training and awareness-raising activities to help them identify and address instances of potential bribery of foreign public officials by applicants and clients. [2009 Recommendation III. i); 2006 Export Credit Recommendation]

Action taken as of the date of the follow-up report to implement this recommendation:
See above Text of recommendation 2(b)

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. Regarding **the detection of foreign bribery in the government sector**, the Working Group recommends that Hungary:

d. Take appropriate measures to make foreign representations in countries where Hungarian companies have significant economic activities aware of the risk of foreign bribery by those companies, including by reviewing local media sources for allegations, as well as their obligation to report such information to the relevant authorities in Hungary. [Recommendation III. i)]

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

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:

The Hungarian Export Promotion Agency plans to raise awareness through e-mail marketing and other communication tools among those Hungarian companies who have significant economic activity or affiliated companies in those target countries, where HEPA is operating a representation office. In 2021 HEPA has six representation offices (Shanghai, Tokio, Istanbul, Belgrade, Moscow and Toronto).

Text of recommendation 3:

3. Regarding the **detection of foreign bribery by the private sector and civil society**, the Working Group recommends that Hungary fully implement the Phase 3 recommendation to ensure that specific foreign bribery awareness training is provided to the accounting and auditing profession. [2009 Recommendation X. B. v)]

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

The ethical issues have been implemented in the compulsory trainings of the accounting and auditing profession. The issue is dealt with in details in the mandatory Code of Ethics and in the ethical standards of the Hungarian Chamber of Auditors, which –among others – include the auditors' and accountants' responsibilities and obligations when they discover (or think to have discovered) a(n eventual) non-compliance of their clients with the legislation in force. The Auditors' Public Oversight Authority has a right of approval on the standard-setting and on the training-structure of the Hungarian Chamber of Auditors, in which way the information and the education of the auditors are regularly assured. We must note that the new regulation on European level about the financing of the money-laundering and of terrorism specifies very strict requirements for the auditors which enable to avoid and to explore bribery. The Auditors' Public Oversight Authority is continuously monitoring the auditors' training and quality assurance systems and in result of this we plan to modify the prescriptions.

If no action has been taken to implement recommendation 3, 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:

Magyar Könyvvizsgálói Kamara - The Chamber of Hungarian Auditors (hereinafter referred to as "Chamber") is a self-governing public body of registered auditors (not dealing with other accountants who are not qualified and registered member auditors). For qualified audit practitioners it is mandatory by law to be a registered member of the Chamber. The Chamber is a member body of IFAC, the International Federation of Accountants.

I. Professional requirements for an auditor to follow are set out in the national law as well as in international standards. National regulations – in line with locally implemented international standards and other professional guidelines issued by IAASB and IESBA – lay out strict rules for professional conduct, and establish stern supervisory mechanisms. These mechanisms, amongst others, comprises of the authorisation: − to determine the framework of professional qualification; − organize and supervise the compulsory continuing education of registered statutory auditors; − make arrangements for setting up the related system of quality assurance; − adopts the rules of professional ethics, taking into consideration the IESBA Code of Ethics published by IFAC for its member organisations and audit firms, and monitor their conduct with a view to compliance with such rules.

II. Professional auding requirements are guided and determined largely by international auditing standards – that are adopted by national law. Those standards - taking fully into account the characteristics of the audit profession, the tools and limits of it - thoroughly regulate all aspects of a financial audit investigation and the required professional attitude of the auditors. According to the No. 240 International Standard on Auditing: "The auditor should maintain an attitude of professional skepticism throughout the audit, recognizing the possibility that a material misstatement due to fraud could exist, notwithstanding the auditor's past experience with the entity about the honesty and integrity of management and those charged with governance (ISA240 24.)". Professional scepticism is a cornerstone of auditing and enables auditors to develop adequate skills to detect misconduct and/or illicit activities. Furthermore, before accepting any client, the auditor has to take into account the following requirements :The

firm shall establish policies and procedures for the acceptance and continuance of client relationships and specific engagements, designed to provide the firm with reasonable assurance that it will only undertake or continue relationships and engagements where the firm: (a) Is competent to perform the engagement and has the capabilities, including time and resources, to do so; (b) Can comply with relevant ethical requirements; and (c) Has considered the integrity of the client, and does not have information that would lead it to conclude that the client lacks integrity. (ISQC1 26.)"

III. . According to Act LXXV of 2007 (Act on the Chamber), all registered statutory auditors must participate in the continuing professional training program. The objective of the continuing professional training program is to preserve and improve professional competence. The detailed program and the duration of training courses provided under the continuing professional training program is determined by the Presidency of the Chamber on the basis of the recommendation of the Education Committee, subject to approval by the public oversight authority. Failure to attend the continuing professional training program is sanctionable and constitutes disciplinary infraction. In the recent years, the Chamber has constructed the professional training program in a way that special attention would be paid to the topic of the auditor's responsibilities and awareness in detection of fraud and other illegal activities, as well as the thorough demonstration and review of the revised ISBA Code of Ethics.

In addition - as the Chamber finds that supporting auditors is of crucial importance – it offers methodological assistance within the framework of professional training and consulting to registered statutory auditors and audit firms to assist in the performance of their work; and also assists them in fulfilling their work in compliance with the legal regulations through technical publications and the organization of conferences and other programs.

The Chamber opines that the above demonstrated supervisory mechanisms (determining professional qualification framework, continuous professional training requirements, quality assurance) represent sufficient instrument to determine and asses professional conduct and skills of auditors that are enable them to detect illegal and potentially illicit activities – taking also account the limits of the tools of their disposal during performing an audit. well. Naturally, the Chamber continuously asses the training materials of qualification framework and continuous professional training program materials, and amends those when finds it to be necessary.

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:

The Constitution Protection Office (CPO) only can detect bribery as a protector of protected authorities. Detection and investigation of foreign bribery is a special case which is not the job of CPO, if it doesn't attache to the scope of duties based on the National Security Act's 5th §.

If no action has been taken to implement recommendation 4(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 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:

NPS submitted and was awarded an ISF tender titled "Anti-corruption trainings, especially around the issue of foreign bribery" in 2020. With this we laid down the foundations of a large-scale training and experience sharing project in the field of bribery of foreign public officials. Not only the Ministry of the Interior, but also the Head of the General Prosecutor's Office, the President of the National Judicial Office, the Head of the National Police Headquarters, the Rector of the National University of Public Service, the Administrative State Secretary of the Ministry of Foreign Trade and Foreign Affairs also expressed their intention to cooperate.

As it is reflected in the evaluation report, from the side of prosecutors a strong need has arisen As part of the project, we are planning a series of practical one-day trainigs consisting of 7 workshops for 160 investigating prosecutors and prosecutors on the use of covert investigative tools. In addition, considering the Recommendations, we are planning a one-day training around the topic of the responsibility of legal persons for prosecutors, judges and police officers (totally 100 participants), keeping in mind the issue of bribery of foreign public officials. Within the frames of the project prosecutors, judges and police officers would receive additional training on their duties in connection with holding legal persons accountable, and on the knowledge that facilitates their work in cases related to bribery of foreign public officials.

In order to achieve a high standard of practical training, the Hungarian side contacted the Foreign Bribery Working Group to provide speakers, to which Hungary received positive feedback from the Canadian, Polish, Italian, American and English delegates.

We also set the goal of organizing additional trainings (a three-day training and an one-day training) around the topic of the bribery of foreign public officials and the investigation of corruption offences

for police officers (totally 170 participants) taking part in the detection and investigation of corruption cases.

In the event of the implementation of the project element titled ***„Raising awareness of business officials around the issue of the bribery of foreign public officials”***, a one-day training would be held for business actors, especially small and medium-sized enterprises, on promoting of internal control systems and of compliance systems, also encouraging them implementing measures aiming at prevention and detection of the bribery of foreign officials.

The staff (650 officials) of the Ministry of Foreign Trade and Foreign Affairs would be provided with knowledge on the topic foreign bribery within the framework of trainings held for the staff preparing for diplomatic missions, further training of commercial attachés and mandatory training of domestic staff.

In addition, using the online interface established by the NPS we intend to map integrity and corruption risks at public administration bodies in relation to their jobs and positions. In the framework of the survey, we also examine the exposure of individual jobs to foreign influence.

Also during the latest training session for investigating prosecutors (12-13 October 2020) in connection to the office-related bribery (exclusive investigative competence of the PPO) also foreign bribery has been discussed. Further topic were: application of covert measures, money laundering, asset recovery. Foreign bribery is included in the planned curriculum for this year's training as well.

The Rapid Response and Special Police Services National Bureau of Investigation Asset Recovery Office (hereinafter: NBI ARO) has sole competence to perform the so called "international asset tracing procedures" based on the requests of Asset Recovery Offices of European Union and members of the CARIN, furthermore based on direct inquiries from domestic law enforcement agencies in order to trace the assets deriving from crime.

According to the Section 353(1) of CCP the prosecution offices and the law enforcement agencies are obliged to make all necessary measures during the investigation to detect the assets that may be subject to confiscation or confiscation of property. The NBI ARO is entitled to conduct this procedure in accordance with the provisions of the criminal procedure law - parallel with the investigation – based on the request of the prosecutor's offices and the law enforcement authorities before indictment.

Furthermore - under certain conditions - the law provides for the possibility to carry out procedures aiming at the deprivation of properties, assets, data related to the crime and to clarify the ownership of the seized thing. On the other hand – based on the instructions of the prosecution – it is also possible to conduct post-conviction procedures to search for assets, expressed in monetary amounts based on the final decision of the court.

The possibility or obligation to the participation of the NBI ARO in the above-mentioned procedures are specified in internal organizational regulations (Directive 20/2018. (V.31.) of the National Police Headquarters on the tasks of the Police concerning the tracing, identifying and recovering of the proceeds of crime and other assets related to crime and the related Action Plan of the National Police Headquarters).

The Constitutional Protection Office holds special Awareness trainings for protected authorithies and protected State owned companies in order to help proactively prevent and detect bribery (foreign bribery as well).

If no action has been taken to implement recommendation 4(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 4(c):

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

c. Assign responsibility for enforcing the foreign bribery offence, including against foreign subsidiaries, and diligently investigate suspicions of foreign bribery perpetrated by them. [Convention, Article 5; 2009 Recommendation, I, paragraph D)]

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

Investigations in bribery regarding a foreign public officer (Section 293(1) and (3) of CC) fall into the exclusive investigative competence of the PPO (Section 30 point f) of CCP). The competence is based on the qualification of the conduct according to the CC, the criminal jurisdiction is based on the personal and territorial principles, so the rules are clear.

Since the 4th round evaluation there was no new foreign bribery case.

If no action has been taken to implement recommendation 4(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 4(d):

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

d. Significantly increase the level of resources and expertise available to manage the current and forecasted foreign bribery case loads, including for utilising traditional detection and investigative techniques, and new covert investigative tools. [Convention, Article 5; 2009 Recommendation, Annex I, paragraph D)]

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

The structure of prosecutorial investigation has been overhauled in February 2019 to accommodate to the new CCP and streamline and uniform the tasks and responsibilities. During 2019-20, the Department of Priority, Corruption and Organized Crime Cases at the Office of the Prosecutor General (acting as the senior prosecutor to the CIOPPS) monitored and analysed the development of case load and especially corruption related investigations. As a result, in February 2021 it has been concluded that further changes are necessary.

Additional 14 prosecutors have been transferred to the CIOPPS with the main task to supervise the preliminary proceedings conducted by NPS and to lighten the case load of the central regional investigating PPO.

In addition, since building up parallel intelligence and operative capacities already present at the LEAs is not feasible, the prosecutor general turned to the minister of interior and proposed the conclusion of cooperation agreements concerning the various police units the investigating PPOs usually draw upon according to the CCP. (This includes various tasks, from executing covert measures to provide operative, forensic and security support to investigative steps.)

As a third element, to strengthen the prosecutorial investigation the training system of PPO trainees has been amended to ensure the steady re-supply of the CIOPPS with personnel. From this year trainees have to spend at least 6 months at the CIOPPS.

If no action has been taken to implement recommendation 4(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 4(e):

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

e. Assess the risk of money laundering associated with foreign bribery in connection to Hungarian companies, including foreign subsidiaries, raise awareness of such risks in the AML/CFT system, and consider the use of typologies for this purpose. [Convention, Article 7]

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

In order to implement this recommendation the Hungarian FIU (HFIU) has taken the following actions.

The HFIU has sent the Phase 4 Report on Hungary made by the OECD Working Group on Bribery to the relevant departments of the National Tax and Customs Administration to take the appropriate actions.

The staff of the HFIU received the relevant information about the evaluation process, the report itself, in particular the statements and recommendations related to the AML/CFT system.

In order to raise awareness of the risk of foreign bribery related to the AML/CFT system, the HFIU accommodated the relevant information into its annual report 2019.
This annual report was published on the website of the HFIU, it can be accessed via the following link:
https://www.nav.gov.hu/data/cms527747/Eves_jelentes___2019.pdf
/Relevant part: Page 9 – C) Nemzetközi vesztegetés és kapcsolódó pénzmosás (Foreign bribery and associated money laundering)/.

This dedicated part of the annual report gives information about the evaluation, about the report and gives typologies to ensure the awareness raising of the risk of foreign bribery.
The OECD report and the sources of the typologies /*OECD (2013), Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors, OECD Publishing, Paris; Anti-bribery typology reports (OECD)*/ are linked in the footnote of the annual report.
Also the members of the HFIU were informed about the typologies for the purpose of being able to better and more effectively detect the cases involved in bribery.

Presumably, the actions written above contributed to the detection of the following case /the case study was deleted due to its sensitive nature/.

The PPO participates at expert level in the AML/CFT risk assessments.

The general review of the Hungarian AML/CFT national risk assessment (NRA) is scheduled for 2021. The review will be based on the methodology and structure of the most recent NRA, completed in 2017. Under the methodology, the different risk factors are assessed from the viewpoint of the AML/CFT supervisory authorities, as well as the law enforcement authorities. The risk factors include all relevant predicate offenses to AML, so the assessment of the risks related to corruption and bribery will be part of the NRA review.

If no action has been taken to implement recommendation 4(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 5(a):

5. Regarding the **detection, investigation and prosecution of foreign bribery cases using tax information**, the Working Group recommends that Hungary:

a. Establish an effective legal and administrative framework to facilitate the reporting by tax authorities of suspicions of foreign bribery arising out of the performance of their duties to CIOPPS.

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

It is under discussion.

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 the **detection, investigation and prosecution of foreign bribery cases using tax information**, the Working Group recommends that Hungary:

b. Provide guidance to the tax authorities to facilitate such reporting.

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

It is under discussion.

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 the **detection, investigation and prosecution of foreign bribery cases using tax information**, the Working Group recommends that Hungary:

c. Fully implement the Phase 3 recommendation that Hungary provide, on a regular basis, training for tax officials on how to detect bribes to foreign public officials concealed as deductible expenses for tax purposes, including commissions, and use the OECD Bribery Awareness Handbook for Tax Examiners for this purpose. [2009 Recommendation VIII. i); 2009 Tax Recommendation I. i)

Action taken as of the date of the follow-up report to implement this recommendation:
It is under discussion.

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 5(d):

5. Regarding the **detection, investigation and prosecution of foreign bribery cases using tax information**, the Working Group recommends that Hungary:

d. Ensure that NTCA is informed forthwith of all foreign bribery convictions in order that it may determine whether it is appropriate to retroactively deny the tax deductibility of any expenditures representing bribery payments. [2009 Recommendation VIII. i); 2009 Tax Recommendation I. i)

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

The rules on data communication to the criminal record body are regulated by 20/2009. (VI. 19.) IRM Decree (hereinafter Decree) and the data system is set out in Act XLVII of 2009 on the criminal records system, the registry of convictions handed down against Hungarian nationals by courts of the Member States of the European Union, and the recording of criminal and law enforcement biometric data (hereinafter Criminal registration act).

Chapter IV of the Regulation sets out the court's obligation to provide information, which must be fulfilled on the information sheets provided in the Annex to the Decree.

According to the Criminal registration act the purposes of the criminal records are:
a) recording of the convicted,
b) registration of persons without a criminal record who are subject to adverse legal consequences,
c) registration of persons subject to travel restrictions abroad.

The purpose of handling of data registered in the record of the convicted is:
a) to facilitate the enforcement of a sentence or measure resolved in a final decision of a criminal court,
b) proof of a criminal record
ba) the protection of crime prevention, law enforcement, justice, and national security interests,
bb) facilitating the exercise of rights of the person concerned; and
bc) to protect the rights and safety of others.

The record of the convicted shall contain the data of the person against whom the court has made a final decision finding a guilty case, and the person was not released on the day the decision became final based on Act IV of 1978 (old Criminal Code) or CC.

The purpose of recording data on persons without a criminal record who are subject to adverse legal consequences is:
a) to facilitate the enforcement of a sentence or measure resolved in a final decision of a criminal court,
b) ensuring the enforcement of adverse legal effects
ba) the protection of crime prevention, law enforcement, justice, and national security interests,
bb) facilitating the exercise of rights of the person concerned; and
bc) to protect the rights and safety of others.

The purpose of the handling of data registered in the register of persons subject to criminal proceedings is to facilitate the rapid and efficient conduct of criminal proceedings, to ensure their legality, and to protect the rights and safety of persons concerned and others. The register of persons subject to criminal proceedings shall contain the data of the person with whom a reasonable suspicion has been communicated in the course of criminal proceedings.

The purpose of handling data related to information in judgments of the Member States and in the register of judgments of the courts of the Member States of the European Union against Hungarian citizens is:
a) to facilitate reciprocal exchanges in the framework of criminal cooperation with the Member States of the European Union,
b) to be taken into account in criminal proceedings against the sentenced person under a well-founded suspicion of another criminal offense,
c) to facilitate proof of criminal record and the enforcement of adverse legal effects.

The register of convictions in the Member States shall contain the data of the Hungarian citizen whose guilt has been finally established by a court of another Member State of the European Union.

In case of final convicting court decisions made on corruption offenses, the data is provided to the criminal registration body based on the above legal provisions and with the data content and form specified therein.

The criminal record body
a) provides to the entitled the direct access to the data recorded,
b) transfers data to the entitled subject on a data request,
c) certifies data at the request of the entitled, or
d) transmits data by automatic transmission in specified cases
from the criminal record system as defined in the Criminal registration act.

The registered data in the criminal record system may be transferred and used for statistical and scientific research purposes in a way that is not personally identifiable.

The judiciary currently does not have any obligation to provide data in relation to the abovementioned crimes of corruption, however we do have to mention the regular provision of data done according to the obligation pursuant to section 59 of Act LIII of 2017 on the prevention of money-laundering and financing terrorism.

Additional to filling out the integrated data-table made by the Ministry of Finance, the judiciary quarterly sends the final judgements made in money-laundering cases to the National Tax and Customs Office as well.

If no action has been taken to implement recommendation 5(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:

Recommendations regarding enforcement of the foreign bribery offence

Text of recommendation 6(a):

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

a. Amend the definition of foreign public official to expressly clarify that it includes officials of foreign public enterprises. [Convention, Article 1]

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

According to the 6(a) recommendation, point 13. a) of Section 459(1) of CC was modified by the Act XLIII of 2020 concerning the term of foreign public officer. The new rule entered into force from 1 January 2021. The text of the amendment is the following:

Section 459 (1)
13. a foreign public officer means

a) a person performing legislative, judicial, administrative or law enforcement tasks in a foreign country, or a person performing services, or tasks related to the exercise of public authority in a foreign country, including a person performing such services or tasks at a statutory professional body or at an enterprise maintained by the State or a local government.

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. 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:

There are no changes in this regard.

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 6(c):

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

c. Consider whether the substitute prosecution procedure could feasibly apply to foreign bribery in cases where competitors and/or citizens have been harmed by such bribery, and thus might constitute 'victims' for the purpose of initiating the procedure. [Convention, Article 5; 2009 Recommendation, Annex I, paragraph D]

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

In connection with this recommendation, attention should be drawn to the decision of the Constitutional Court 3384/2018. (XII. 14.) AB made in the meantime. This may have a significant impact on the definition of victim in the criminal procedural law and thus on the opening of the possibility of substitute private prosecution proceedings in accordance with the above recommendation.

As a consequence of the AB decision, compared to the previous case-law, the careful consideration of the issue of direct infringement has to be received special importance. The AB decision will certainly open the way for a development of the definition of victim, compared to the previous judicial practice. It is likely expected because the Constitutional Court has expressly pointed out that the new CCP and the changes in the rules concerning the private prosecutor, in particular Sections 50 and 54 and Section 787(3) (d), require the review and reconsideration of the Opinion number 90. of the criminal division of the Hungarian Supreme Court in order to bring the guidelines for courts into line with CCP.

It has to be highlighted from the AB decision the aspects which, according to the view of the Constitutional Court, the courts have to take into account when examining the right to act as a substitute private prosecutor. According to this, the courts shall consider the following aspects when examining the right to act as a substitute private prosecutor:
- whether the criminal offense caused a direct infringement to the victim,
- whether the legal definition of the criminal offense contain a passive subject or a result of the criminal offense, and
- whether there is a possibility for a substitute private prosecution and thus for the enforcement of a criminal claim by the victim, which has to be examined in the light of the specific legal facts in each cases.

If no action has been taken to implement recommendation 6(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(d):

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

d. Compile data specifically on confiscation in domestic and foreign bribery cases, including i) the amounts and value of property confiscated, and ii) the percentage of such cases in which confiscation is imposed. [Convention, Article 3.3]

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

Based on the data on crimes of corruption collected from the statistical judicial database from the years of 2019 and 2020, the following data can be provided. In 2019, 331 natural persons were found guilty, while 29 natural persons were acquitted of charges of these kinds of crimes.

In 2020 the number of natural persons who were found guilty was 253, while 17 natural persons were acquitted of charges.

The imposed penalties in case of guilty verdicts were as follows:

Number of people charged with bribery*		
Between 2019 and 2020		
	2019	2020**
Found guilty	331	253

Acquited	29	17
Imposed penalties, measures		
Imprisonment	242	223
- 0-6 months	7	9
- 6-12 months	58	30
- 1-2 years	149	112
- 2-3 years	13	22
- 3-5 years	12	43
- 5-8 years	2	7
- 8-10 years	1	0
Community service work	2	0
Fine	137	142
- mean (in Ft)	467394,2	388116,2
Prohibition to exercise professional activity	32	22
Driving ban	0	1
Prohibition from residing in a particular area	0	1
Expulsion	15	8
Demotion	3	18
Warning	3	0
Conditional sentence	16	10
Deprivation of civil rights	48	89
Expulsion	1	0
Confiscation of property	104	126
Confiscation	4	1
Probation with supervision	0	2

** the statistical database is not yet closed
During data processing it is important to note, that one accused could have received multiple penalties or measures, thus the number of imposed penalties and measures could exceed the number of accused, and that in cases of multiple accounts of offenses one accused could have been found guilty for a crime or crimes additional to bribery.

The mean amount of fine imposed in 2019 was 467.394.- forints, while in 2020 it was 388.116.- forints.

Confiscation or confiscation of property was imposed against 33% of all 331 natural persons (108 cases) convicted in 2019 and against 50% of all 253 natural persons (127 cased) convicted in 2020. The judicial statistical database does not store data about the monetary amount of confiscation and confiscation of property measures, that data can only be gathered by studying the individual judgements that imposed them.

Referencing the answer given in **Section 5. d.**, if a request to provide data on crimes of corruption arrives, following the model of providing data in cases of money-laundering, the

final judgements made during the reference period can be collected with the same regularity and the relevant data gathered can be provided.

Until 2020, HU ARO collected statistical data on the asset recovery related activity of the police. Since 2021 real-time statistical data about ongoing and closed cases on national level are available.
Based on data sent to HU ARO, in 2019 and 2020 the following financial coercive measures were taken in bribery cases.
Active corruption
Passive corruption
Interpretative Provisions
Active Corruption of Public Officials

Nationwide:

Year	Number of cases	Total amount of assets secured
2019	28	17.453.132,- HUF
2020	31	1.829.168.713,- HUF

We don't have information whether the above- mentioned cases had international aspects.
The International Division of HU ARO had conducted 5 international asset tracing/identifying cases in the last two years in bribery cases, mostly by the request of foreign police bodies.
In case of asset tracing/identifying procedures the HU ARO doesn't always have all the information on the facts of cases (e.g. in the request merely money laundering is referred to), thus the number of international asset recovery cases concerning bribery cases might be higher.
Investigating bodies receives the content – e.g. amount of confiscation of property – of final judicial decisions only by request, therefore statistical data in this regard is held by the National Office for the Judiciary (see above).

If no action has been taken to implement recommendation 6(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 7(a):

7. Regarding the **investigation and prosecution of foreign bribery cases allegedly involving Hungarian officials benefitting from immunities**, The Working Group recommends that Hungary:

a. Take measures within its constitutional principles to ensure that allegations of foreign bribery involving such persons can be appropriately investigated before submitting a motion to waive immunity. [Convention, Article 5; 2009 Recommendation, Annex I, paragraph D]

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

There are no legal changes in this regard. However, we would like to underline that in the last two years the Parliament lifted immunity successfully also in two well-known cases. These two cases show precisely that immunity of MP's does not impede successful investigations and collecting evidence.

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 the **investigation and prosecution of foreign bribery cases allegedly involving Hungarian officials benefitting from immunities**, The Working Group recommends that Hungary:

b. Take appropriate measures within its legal system to ensure that it can respond effectively to MLA requests from Parties to the Convention when officials benefitting from immunities are allegedly at the receiving end of foreign bribery offences involving other Parties to the Convention. [Convention, Article 5; 2009 Recommendation, Annex I, paragraph D]

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

There are no changes in this regard.

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 the **provision of MLA pursuant to requests from other Parties to the Convention**, the Working Group recommends that Hungary:

a. Fully implement the Phase 3 recommendation to compile comprehensive annual statistics on all incoming and outgoing MLA and extradition requests relating to foreign bribery. [Convention, Article 9; 2009 Recommendation XIII.]

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

The Department of International Criminal Law and Human Rights of MoJ of Hungary does not have statistics in international legal assistance cases in criminal matters. These cases are predominantly dealt by the General Prosecutor's Office or arranged directly by the foreign and the Hungarian judicial authorities concerned both within the EU and with third countries. Thus, MoJ does not have an overview of these cases and does not have the technical infrastructure to prepare reliable statistics in this regard. The required statistics can be at the disposal of the General Prosecutor's Office or the National Office for the Judiciary.

In case of EAW based surrender cases and in extradition cases MoJ does not have crime-specific statistic data at our disposal. The required statistics may be at the disposal of the International Law Enforcement Cooperation Centre (ILECC) of Hungary or the Metropolitan Court of Justice.

ILECC, as the LEA body responsible for coordinating implementation keeps comprehensive statistics on the surrenders and extraditions on an annual basis. The statistical table in question shows the criminal offenses, the suspected perpetration of which constitutes the basis for the surrender/extradition, in a transparent manner. Based on the above facts, it can be stated that in 2020 there was no surrender/extradition based on a suspicion of bribery of a foreign official.

Pursuant to Section 18(2) of the Act XXXVIII of 1996 on International Legal Assistance in Criminal Matters, in matters regarding extradition from Hungary and falling under the jurisdiction of the judiciary, the Budapest-Capital Regional Court has exclusive jurisdiction. According to the data gathered from the judicial database of the Budapest-Capital Regional Court regarding the court's caseload, in relation to 2018, 2019 and 2020 the following statistical data can be given:

Extradition	2018	2019	2020	Sum
Number of new cases	82	127	70	**279**
Number of cases finished	84	124	77	**285**
Average duration of finished cases (days)	38,0	50,6	61,1	**49,7**

The database is not capable of filtering out how many of the new extradition cases related to foreign bribery cases in the reference period. That request can only be fulfilled by directly contacting the court and naming the relevant case numbers.

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 the **provision of MLA pursuant to requests from other Parties to the Convention**, the Working Group recommends that Hungary:

b. Adopt appropriate measures to respond without undue delay to MLA requests regarding information about Hungarian nationals. [Convention, Article 9; 2009 Recommendation XIII.]

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

The PPO treats MLA requests as urgent, concerning the EU Member States the observation of deadlines laid down in the EIO Directive (within 7 days feedback, within 30 days decision about the execution, within 3 months execution) is an obligation by the implementing law. As a result, handling of MLA request from third countries became more expedient too. Whether the request concerns Hungarian nationals or not, plays no role.

Legal assistance cases in criminal matters are predominantly dealt by the General Prosecutor's Office or arranged directly by the foreign and Hungarian judicial authorities concerned both within the EU and with third countries. Thus, MoJ does not have an overview of these cases.

In the remaining cases requests from other Parties arriving at MoJ are answered within 30 days. In case of requests requiring answers from courts the 30 days counted from the date MoJ get the response from the court. If the Requesting Party requires shorter deadline or urgency, MoJ complies with the requests in the requested time frame or otherwise as soon as possible.

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 8(c):

8. Regarding the **provision of MLA pursuant to requests from other Parties to the Convention**, the Working Group recommends that Hungary:

c. Ensure that the reasons for refusing MLA are interpreted in line with Article 9.1 of the Convention. [Convention, Article 9; 2009 Recommendation XIII.]

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

The prosecutorial practice concerning the execution of MLA requests is in every element compliant with Article 9.1 of the Convention. Refusal of an MLA request is very rare.

Most of our MLA treaties contain provisions about the grounds of refusal of MLA requests. In case an international treaty does not contain these provisions or does not provides otherwise, Act XXXVIII of 1996 on International Legal Assistance in Criminal Matters, which has to be applied unless otherwise stipulated by an international treaty, provides for the grounds of refusal; in cases falling under the above act the Hungarian authorities can deny the MLA on these grounds:

- according to Section 2, the request shall not be executed nor issued if it endangers public order or national security,
- pursuant to Section 5(1) point a), the request shall not be executed nor issued in case of lack of double criminality,
- according to Section 61(1), the request shall not be executed nor issued in the cases specified thereof.

In the light of the above, we believe that Hungarian provisions fully comply with the international obligations provided by international treaties and conventions in this regard, including Article 9(1) of OECD Convention.

If no action has been taken to implement recommendation 8(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:

Recommendations regarding liability of, and engagement with, legal persons

Text of recommendation 9(a):

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

a. Consider making it mandatory to seek sanctions for legal persons found to have committed foreign bribery under Act CIV of 2001, in appropriate circumstances, establish internal guidelines on the circumstances in which it would be appropriate for prosecutors to seek sanctions against legal persons for foreign bribery, and a clear commitment to do so when the criteria are satisfied. [Convention Articles 2 and 3.2; 2009 Recommendation, Annex I, paragraph D]

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

The 1/2019. (V.31.) curriculum of the deputy of the prosecutor general on the measures applicable against legal persons – which is a mandatory guideline for prosecutors – together with the earlier 2/2015. (IV.30.) curriculum on the prosecutors' responsibilities concerning asset recovery makes it de facto mandatory for prosecutors to seek such sanctions if the legal criteria are fulfilled.

The MoJ is in the process of running a comprehensive review of Act CIV of 2001 on the criminal measures applicable against legal persons (hereinafter: Act CIV of 2001).

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 **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:

The MoJ is in the process of running a comprehensive review of Act CIV of 2001. In the initial phase, MOJ has contacted the relevant authorities and the representatives of the legal practitioners in order to collect their experience in applying the legislation currently in force, including challenges in its application. In addition, MOJ has also analysed the relevant legislation in other EU Member States and collected good practices in this respect. MoJ has concluded that in terms of main features these legislative solutions did not differ widely from the Hungarian legislation with regards the sanctions applied against legal persons and the link between the offenders and the legal persons concerned. Therefore the Hungarian legislation does not seem to be less capable of producing the required effects. As a next step, MoJ will further consult the courts and prosecutorial services and representatives of the academia. Based on the information gathered, the government will present a bill to amend or, if needed, revoke and replace the current act, to the National Assembly in late 2021 or early 2022.

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:

Text of recommendation 10(a):

10. Regarding **engagement with the private sector on managing foreign bribery risks**, the Working Group recommends that Hungary:

a. Urgently take steps to increase the awareness of all companies that engage in exports, including subsidiaries of MNEs, regarding their foreign bribery risks, and further encourage them to adopt effective anti-foreign bribery measures for managing those risks. [2009 Recommendation, Annex II]

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

EXIM: During the first meeting with the customer/exporter, the bank's representative informs the transaction participants about the provisions of the CC about corruption offences and the related sanctions and Eximbank's measures to prevent corruption. Attention is also drawn to the fact that the processing of loan applications is subject to the debtor, the exporter and the other relevant party make a declaration against corruption on a form developed by the Bank. Information is also provided that in case of suspicion of corruption, the competent representatives of the Bank shall be provided with an opportunity to monitor the anti-corruption measures taken by the counterparty. Exporters' attention has to be also drawn to the need to comply with the anti-corruption legislation of countries in which they do business. We recommend to take extra precautions to minimize the risk of corruption in relation to the export activity, and that to take measures to prevent and detect corruption offences and recommend to prepare internal anti-corruption regulations, to develop, apply and document management control systems designed to prevent and detect corruption offences and to take business decisions that are ethical and that fully comply with all the relevant legal requirements. In all cases, the oral information shall be supplemented by the provision of written information material with similar content.

If no action has been taken to implement recommendation 10(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 10(b):

10. Regarding **engagement with the private sector on managing foreign bribery risks**, the Working Group recommends that Hungary:

b. Raise awareness that bribes paid to foreign public officials are not tax-deductible.

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

It is under discussion.

If no action has been taken to implement recommendation 10(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

Regarding Part II and as per the procedures agreed by the Working Group in December 2019, countries are invited to provide information with regard to any follow-up issue identified below where there have been relevant developments since the Phase 4 report. Please also note that the Secretariat and the lead examiners may also identify follow-up issues for which it specifically requires information from the evaluated country.

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(a):

a. Hungary's use of MLA requests for the purpose of detecting foreign bribery case;

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:

There is no new case law since the adoption of the report.

The prosecutorial practice concerning international cooperation is rather up-to-date and developing. According to the recently published guidelines of the Office of the Prosecutor General, a proactive approach to MLA is to be maintained, including the review of MLAs concerning potentially uncovering offences falling into Hungarian jurisdiction.

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:

The general right of freedom of expression is safeguarded in Article IX of the Fundamental Law. Freedom of expression enjoys traditionally a high level of fundamental rights protection in Hungary: the case-law of the Constitutional Court attached priority to freedom of expression in the system of fundamental rights, as the freedoms of expression, speech and press are basic preconditions for developing and upholding democratic public opinion.

Following the 2010 elections the Parliament has modified the media law. All the relevant legal concerns formulated concerning the new legislation were addressed by the Hungarian legislator by amending the law. Concerning the rules introduced by the modifications adopted between 2011 and 2013, no further significant remarks have been made. In fact, e.g. the former Secretary General of the Council of Europe acknowledged on several occasions that the Hungarian media law had been significantly improved.

It is a main principle of the Hungarian media regulation that media services may be provided and press products may be published freely, as well as the contents of media services and press products may be determined freely. Freedom of the press embodies sovereignty from the State, and from any and all organizations and interest groups. These general principles as well as the safeguards for editorial and journalistic freedom provided for among others in Act CIV of 2010 on the Freedom of the Press ensure efficient safeguards against state / political interference.

Hungary recognises the vital contribution of nongovernmental organisations to the promotion of common values and goals (over 60 000 non-governmental organisations are operating in Hungary). These organisations also play an important role not only in the democratic control of the government and shaping public opinion but also in addressing certain social difficulties and fulfil other community policy needs. Therefore, the right to freedom of association as well as other relating fundamental rights, such as the freedom of assembly and freedom of expression, are guaranteed by the Fundamental Law of Hungary in line with the norms of the Council of Europe.

Legislative amendments in the last couple of years ensure simplified registration and modified registration procedures for associations and foundations and reduced administrative burdens affecting NGO grant applications.
With reference to the Law on Transparency of Organisations receiving Foreign Funds cited in footnote 38 of the Report, the following shall be reported:

Although in June 2020, the Court of Justice found certain violations of EU law in connection to the Hungarian legislation on the transparency of foreign-funded civil society organisations, at the same time, the Court explicitly endorsed the objective of the Hungarian legislation by stating that some civil society organisations may, having regard to the aims which they pursue and the means at their disposal, have a significant influence on public life and public debate and that the objective consisting in increasing transparency in respect of the financial support granted to such organisations may constitute an overriding reason in the public interest.
The legitimate aim of the legislation has been acknowledged by the Venice Commission as well (in the process of adoption of the law, Hungary complied with 3 out of 5 of the recommendations by the Venice Commission).

The elaboration and adoption of the adjusted legal framework in line with the EU Court's guidance and in close cooperation with the European Commission is underway.

Text of issue for follow-up 11(c):

c. Application in practice of the amendments to the foreign bribery offence and the liability of legal persons for the purpose of covering the bribery of foreign public officials through intermediaries;

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 PGO there is no case law since the adoption of the report.

A.)
As a result of the search in the court statistical database, there was only one final judgment in the period under review, in which the court found the accused guilty in abuse of a function in connection with (but not regards) a foreign public official among other criminal offences.

Anonymous description of the conviction at first and second instance:

The Military Tribunal of the Budapest-Capital Regional Court in its judgment number 42.Kb.171/2018. announced in 26 May 2019 found the former police brigadier general first defendant guilty in cumulative abuse of a function (Section 299(1)-(2) point a) and (3) of CC) and in abuse of a function (Section 299(1)-(2) point a) of CC), therefore as a cumulative sentence the court imposed 6 years of imprisonment in correctional institution, 6 years of deprivation of civil rights, 500 of days of fine representing the amount of 2000 HUF per day, and confiscation of property of 24.000.000.-HUF. The court specified that the accused could be eligible for release on parole after the two-thirds of the sentence has been served. The court disposed about the substitution of the fine by the appropriate term of imprisonment in case of not paying it in time. It also provided the seizured 8.000.000.-HUF to be offsetting to the amount of the confiscation of property. The court ordered the general first defendant to pay the costs of the procedure of 142.254.-HUF.

The second defendant was found guilty in active corruption of public officials as an aider (Section 293(1) of CC) therefore the court imposed him as a recidivist 1 year and 6 months of imprisonment in correctional institution, 2 years of deprivation of civil rights and 100 of days of fine representing the amount of 1000 HUF per day. The court specified that the accused could be eligible for release on parole after the three-quarters of the sentence has been served. The court disposed about the substitution of the fine by the appropriate term of imprisonment in case of not paying it in time. The court ordered the second defendant to pay the costs of the procedure of 471.586.-HUF.

The third defendant was found guilty in cumulative active corruption of public officials as a co-actor (Section 293 (1) and (3) of CC), therefore the court imposed 8 months of imprisonment in correctional institution and 1 year of deprivation of civil rights. The court specified that the accused could be eligible for release on parole after one half of the sentence has been served. The court ordered the execution of the 8 months of imprisonment imposed by the judgment number 5.B.114/2014/21. of the District Court of Hódmezővásárhely. The court ordered the third defendant to pay the costs of the procedure of 35.590.-HUF. The court also ordered the fate of the exhibits seized during the investigation.

The Military Tribunal of the Budapest-Capital Regional Court of Appeal as a court of second instance reversed the judgment by its judgment number 6.Kbf.44/2019/49. announced in 11 March 2020.
The imprisonment of the first defendant was decreased to 4 years in jail, the fine was decreased to 500 days, 1.000.-HUF per days, in total 500.000.-HUF. The court disposed about the substitution of the fine by the appropriate term of imprisonment in case of not paying it in time.
The second defendant's imprisonment was decreased to 1 year in jail, and his fine was left out. The appellate court precluded the second defendant's eligibility for parole.

Moreover the judgement of the court in the first instance was upheld with the correction of the proper citing of the cumulative abuse of a function stated under the first paragraph to Section 299(1), (2) point a), (5) of CC.
The costs incurred in the second instance proceedings was ordered to be borne by the state.

The historical facts established were as follows:

1./The civil engineering Lltd., which co-owners were the defendants and person number 1, in 2014 carried out retaining wall construction works on a part of the road No. 71 - in Káptalanfüred -, however other parts of the road would also have needed wall reinforcement. At the end of 2015 – at the beginning of 2016 the Ltd. informed about this the second defendant involved in the preparation of the application.

In order to facilitate the retaining wall construction, the third defendant approached person number 2, who was interested in various construction companies, then, at a date that cannot be further specified, person number 1 was introduced to person number 3 who was essentially a lobbyist and who was informed about the opportunity of the retaining wall construction work. In January-February 2016, at a date that cannot be further specified but before 12 February 2016, person number 3 introduced person number 1 to the first defendant as someone who works at the Ministry of Interior in a hotel in the 5th district of Budapest. The second defendant informed him about the business profile of the Ltd. and its retaining wall construction work previously carried out by the company in the settlement around Lake Balaton, furthermore about the fact that it would be well-founded to continue the work in which the Ltd. would also take part. He also asked the first defendant to look into the possibility of funding the project, who promised to look for options.

A few days later - at an unspecified date, but before 12 February 2016 - the I. and II. defendants met in a hotel in Budapest, where I. Defendant told Person No. 1 that the retaining wall construction work at Lake Balaton could be financed from the state "force majeure" fund if the mayor of the respective settlement at Lake Balaton applies in writing to the state secretary responsible for local governments at the Ministry of Home Affairs. The state secretary will then decide about funding the project, upon which the Hungarian State Treasury will make the payment.

He also said he would draft the decision himself. Person No. 1 informed the owner and his business partner about this - on a date that cannot be determined more precisely, but before 12 February 2016, and person No. 4, who represented the Ltd. - on a date that cannot be determined more precisely, but before 12 February 2016. - contacted the mayor of the Balaton settlement, and told him that the retaining wall construction work could be continued, at the same time he undertook that the details of the project would be worked out by the company, and he would also help with the financing of the works. On 12 February 2016, the mayor of the Balaton settlement requested assistance in writing from the local government secretary of the Ministry of Home Affairs to provide financial support for staving off the emergency caused by slipped ramps in the area.

The I. Defendant, Person No. 1 and 4 met again in March 2016 - at an unspecified date – in the Budapest Hotel, where the I. Defendant told the II. Defendant and his business partner that the retaining wall construction project can be carried out, HUF 2.4 billion from the state "force majeure" fund can be used for the implementation, but 1% of the amount (HUF 24 million) must be given to him in advance and he will forward it to a person who has influence over the arrangements. Persons 1 and 4 rejected the offer and then, at a date not specified, the II. Defendant told Person No. 1 that the I. Defendant would accept 12 million forints instead of 24 million forints. However, Person No. 1 refused it again. At the end of March, beginning of April 2016 - at a date not specified, but no later than 6 April 2016 - the III. Defendant - who was financially interested in the successful operation of the Ltd. and knew that the I.

Defendant asks for the money to bribe an official who may influence the decision on financing the project - offered to Person No. 1 that HUF 12 million requested by the I. defendant could also be generated if Person No. 1 takes out a HUF 12 million member loan, which could be secured by the high-value car owned by his ex-mother-in-law. The III. Defendant would lend him this money and then would send it to the I. Defendant.

Person No. 1 accepted the offer and on 6 April 2016 took out a HUF 12 million member loan from the Ltd. He handed over at least HUF 10 million to the II. Defendant to deliver it to the I. Defendant to manage financing the planned project from the force majeure fund. The III. Defendant asked Person No. 2 to hand over the money. Person No. 2 handed over at least HUF 10 million on 6 April 2016 in the Budapest hotel to the I. Defendant, who did not carry out any activities in preparation for the construction of the retaining walls in Balaton settlement, did not transfer the money to another person, but spent it on building a residential property in Pest County.

2./On 25 May 2015, a (Romanian) prosecutor's office operating beside a Romanian city court indicted the V. Defendant for negligent homicide against the accused. In the course of the criminal proceedings – although the V. Defendant's driving license was withdrawn – no other coercive measure was ordered by the Romanian authorities. Subsequently, tax proceedings were initiated in Romania in 2016 in respect of two companies represented by the V. Defendant, during which the Romanian authorities arrested and interrogated several persons. This was reported by the V. Defendant to his "buddy", the III. Defendant in June 2016 - at an unspecified date. The III. Defendant promised to contact his acquaintance, the I. Defendant in order to find out if Person No. 5 was wanted in Romania.

The IV. Defendant approached and asked the I. Defendant to do this and also asked for his help in relation to the V. Defendant's withdrawn driving license. The I. Defendant promised to find out the information requested through his Romanian acquaintance, and then falsely informed the IV. and V. Defendants that they were wanted by the Romanian authorities.
The V. Defendant wanted to travel to Romania in June 2016, so the III. Defendant asked the I. Defendant if he could arrange for the V. Defendant - despite being allegedly wanted - to be able to travel to Romania. The I. Defendant promised to arrange this and asked for HUF 7 million, claiming that he would forward the money to the Romanian official dealing with the case. At the end of June 2016, the II. Defendant handed over HUF 6 million to the I. Defendant in the parking lot of a restaurant in a settlement in Pest County, who undertook to "take out" the V. Defendant's personal data from the Romanian arrest warrant system while he is in Romania. The IV. Defendant reported the bribery to the V. Defendant, who promised to pay the remaining HUF 1 million.

Then, the 5th defendant went to Romania. After his return, when he wanted to go to Romania again, he contacted the 1st defendant on 5 July 2016 via the 4th defendant's phone to ask for his help to go back to Romania and to settle his withdrawn driving license and the tax proceedings against the companies he represented. The 1st defendant promised to help referring to the chief of police of a Romanian county. The 1st defendant informed the 4th and 5th defendants on 7 July 2016 that an arrest warrant has been issued against the 5th defendant in Romania, and that, in order to remove temporarily the 5th defendant's data from the Romanian information system, he should send 4 million HUF by 11 July to the competent Romanian public official via a person working at the Romanian Embassy in Budapest. When the 4th and 5th defendants had informed the 1st defendant on 8 July 2016 that the 5th defendant could pay later, the 1st defendant offered to advance the 4 million HUF, and on 11 July 2016 he informed them that the 5th defendant can go to Romania in the next two weeks. The 5th defendant then travelled to Romania on 18 July 2016, and he returned to Hungary on 20 July 2016.
On 26 July 2016, the 1st defendant contacted the 3rd defendant asking the 1 million HUF that he advanced in arranging the 5th defendant's return home to Romania in June 2016. Then, at the request

of the 4th defendant, he agreed to arrange again the 5th defendant's return to Romania via his Romanian contact. It was settled that the 4th and 5th defendants would pay him a total amount of 8 million HUF on 29 July 2016. At the arranged time, the 3rd defendant handed over that money to the 1st defendant in the parking lot of a fast food restaurant in Budapest, where the police seized the money during the measures taken.
The 1st defendant did not take any measures to ensure the entry of the 5th defendant to Romania, did not forward to another person the 6 million HUF obtained by making a false statement on that insurance. He spent the money on the construction work on a residential property in Pest county referred to in Fact Nr. 1.

The 1st defendant is not mentally ill, does not suffer from a substantial mental decline, and does not have any organ disorder that occasionally associates with disturbance of consciousness. Though, currently and at the time of his act, he has suffered from a cyclothymy underlying family strain which has limited him at the time of his act to a limited extent in recognizing the possible consequences of his behavior and acting accordingly on that recognition.

B.)

According to Act CIV of 2001, amended on 1 July 2013 in accordance with international expectations based on the recommendations of the Council of Europe Anti-Money Laundering Committee and of the third round country assessment of the OECD Anti-Bribery Task Force completed in March 2013, a legal person, in the period under review, was typically applied as a result of criminal proceedings initiated for a crime that damages the budget or violates the order of management.

The criminal law measures applicable to a legal person under the Act above remain unchanged:
- dissolution of the legal entity (applicable only independently)
- restriction of the activity of the legal person (applicable independently or together with the measure below)
- a fine (applicable independently or together with the measure above).

As a result of the amendment, the possibility of applying a measure against a legal person is wider compared to the previous regulation. Such measure can be applied even if the criminal liability of the natural person who has committed the crime cannot be established for some reason, e.g. in the absence of proof, or if the procedure has been suspended, e.g. because the defendant could not be prosecuted for his long-term, serious illness following the indictment, although it could be established beyond a reasonable doubt that a criminal offense had been committed.

The condition for the application of a measure against a legal person remains unchanged. There should be a logical link between the legal person and the criminal offense, so that the purpose of obtaining an advantage for the benefit of the legal person or the establishment of an offense using the legal person is essential for that.

Text of issue for follow-up 11(d):

d. Jurisdiction over foreign bribery, as case law and practice develop, as regards: i) cases that take place in part in Hungarian territory; and ii) cases involving legal persons abroad where the natural person that committed the bribery act is identified and is a not a Hungarian national;

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:

There is no new case law, but:

i) if a criminal conduct has been committed in Hungary, even if only in part (including an accomplice who does not act within the offence but abets or aids the commission), Hungarian jurisdiction can be established;

ii) offences committed abroad by non-Hungarian citizens also fall into Hungarian jurisdiction rules, but in these special cases the criminal proceedings can be initiated by the decision of the prosecutor general (Section 3 (2) a) aa) and ac) and (3) of CC).

Text of issue for follow-up 11(e):

e. Training provided to CIOPPS on the foreign bribery offence, including confiscation of the proceeds of such 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:

The standards in force are guaranteeing the possibility of effective asset recovery in bribery investigations as well. HU ARO provides training for the staff of other investigating authorities as well in connection with effective asset recovery techniques and good practices. Prosecutors' offices (and magistrates) and the authorities responsible for corruption related procedures are involved in these trainings.

In the course of the procedures within the competence of NBI ARO, the department is striving to comply with the requirements of domestic, EU and international regulations including the provisions of the OECD Convention.

To perform the tasks recorded in the government decision 1328/2020. (VI.19.) on the adoption of the medium term National Anti-corruption Strategy of 2020-2022 and the related action plan, the National Defense Service (henceforth: NVSZ) organizes trainings called „Anti-corruption training for police investigators, prosecutors and judges". The National Police Headquarters (henceforth: ORFK) takes part in organizing these trainings and developing the thematics of them based on the cooperation agreement between the ORFK and NVSZ.

Text of issue for follow-up 11(f):

f. Application of sanctions by the courts in cases of foreign bribery, the impact of the new settlement procedure, including whether settlements are transparent and available to the public and the resulting

penalties are "effective, proportionate and dissuasive", and the gradual system for encouraging confessions;

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:

We refer to the answers under points 6. d. and 11. g.

Text of issue for follow-up 11(g):

g. Whether Hungary routinely applies effective confiscation or monetary sanctions of comparable effect to legal and natural persons on conviction for foreign bribery in compliance with Article 3.3 of the Convention;

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:

Sections 74-76 of CC stipulate the rules on confiscation of property.

According the these the subjects to confiscation of property are any financial gain or advantage resulting from criminal activities, obtained by the offender in the course of or in connection with, a criminal act; any financial gain or advantage that was used to replace the financial gain or advantage 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 finance the means used for the commission of a crime, the conditions required therefor or facilitating thereof and any property embodying the subject of financial gain given or promised.

Any financial gain or advantage resulting from criminal activities, obtained by the offender in the course of or in connection with, a criminal act, also if it served the enrichment of another person, shall be confiscated. If such gain or advantage was obtained by an economic operator, this economic operator shall be subject to confiscation of property.

If the perpetrator or the person profiteering has died or the economic operator has been transformed, the property transferred by succession shall be seized from the successor in title.
Special emphasis needs to be put on Section 74(2) point g of CC stipulating that pending proof to the contrary, all assets obtained by the perpetrator of the crime of corruption of public officials and the acceptance of being corrupted shall if obtained in the five years preceding the start of the criminal proceedings, if the size assets, and the lifestyle of the perpetrator is considered unreasonably disproportionate relative to his lawful income and personal circumstances.

The judicial practice has not changed and it is based on the legal provisions. In case of corruption crimes the financial punitive measures are applied consistently. We highlight again that the court's practice follows the principles laid out by individual decision: BH1996 297, according to which in the case of crimes against the integrity of public life, the object of illicit financial gain must be confiscated or the perpetrator must be ordered to pay the full value of such a gain in which case the payment may not be excused and amount of the financial gain may not be reduced on grounds of equity.

Text of issue for follow-up 11(h):

h. Whether the new administrative court system has any impact on the investigation and prosecution of the offence 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:

The Parliament adopted the Act LXI of 2019 on postponing the entry into force of the Act on administrative courts on 2 July 2019, according to which the Act CXXX of 2018 on administrative courts has not entered into force ever since. On 12 December 2019, the Eighth Amendment to the Fundamental Law removed provisions stipulating the setting up of a separate administrative court system. Therefore, no separate administrative court system has been established in Hungary, the adjudication of administrative court cases still takes place within the ordinary court system.

As a matter of fact, the organisational framework of administrative justice has been changed since 1 April 2020, this change however is within the judicial system, meaning that as from this date regional courts are acting as courts of first instance in administrative cases (the finding applies to administrative court cases).

In the former judicial system specialized district level courts existed for administrative and labour cases. These have been liquidated which is not equal to the specialized organizational structure planned in 2018 and cancelled in May 2019.

The regionalization correlating to the change of the level of court competence has been started in 2018 by means of the new Code of Administrative Litigation. This did not significantly concern the system of financial litigation as the latter has already been regionalized since 2018 (8 administrative and regional courts had territorial jurisdiction and since the 1st of April their regional courts hear these cases).

As far as the financial justice is concerned, two instances procedures remain in place regarding the activities of administrative bodies (fundamentally the National Tax and Customs Administration) meaning that litigation is available as a single instance ordinary remedy. Without change, there is only an extraordinary remedy available against the court's judgement: revision by the Curia of Hungary.

In financial litigations we have observed the activities of the tax and customs administration in tax, customs and duties cases and came to the conclusion that relevant information and documents, serving as a basis for criminal liability, usually emerge in the procedure of the investigating bodies of the National Tax and Customs Administration and are then transferred to the departments of administrative monitoring for taxes, customs and duties. The reverse scenario is also possible under which investigative bodies are informed of the relevant information and documents at – and usually before – the rendering of an administrative decision by the monitoring departments.

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:

As we referred in the previous reporting period, there is no court specializing in international bribery in the a Hungarian judicial system, the adjudication of such matters fall within the jurisdiction of the general court on first instance, governed by Section 20(1) point 11 of CCP.

According to the Chapter V, point 6 of the 6/2015 (XI. 30.) NOJ instruction on the Rules of Court Administration, each court operates under a specific order of case allocation, this is where the determining factors and guiding aspects of the case allocation order are recorded.

The case allocation order shall include in which cases can specific judges, junior judges, and court officers act (case assignment), and what rules are in place in for case distribution (case allocation).

In determining the case allocation order, the principles in Section 10, subsection (1) and (3) of the Act CLXI of 2011 on the Organization and Administration of the Courts shall be kept in mind.

Thus, to enforce the right to a lawful judge, the case allocation order should be drawn up in such a way that it is possible to determine in advance which council proceeds in a given case, including who proceeds with the case if the council or a member of a council is incapacitated. The case allocation order contains the composition and number of the councils for each court, what case groups are proceeded by which judges, councils, - including judges on secondment - junior judges in cases determined by law in the competence of first instance judges, and which court leader is entitled to allocate cases, and how case allocation takes place.

During the design and review of the case allocation system, the importance and labor intensity of the cases, the case arrival statistics, the implementation of a proportionate workload, the timeliness requirement of the judicial work, and the special expertise of each judge and the specialization by case should be monitored especially.

The 6/2015. (XI. 30.) NOJ instruction further principles that the case allocation order should cover all judges, junior judges, court officers, including those who are partly or wholly engaged in non-litigious proceedings (principle of completeness); the case allocation order must be established in a general way so that it can be determined from it which judge (judicial council), junior judge, court officer handles the incoming case (principle of abstraction); the case allocation order should only be modified in a predetermined order of procedure (principle of permanence); the case allocation rules should specify the period during which the effects of the allocation resulting in unequal workload on judges, junior judges and court clerks should be examined (principle of workload equalization) and the conditions for amending the case allocation rules; the transfer of a previously allocated case must be in accordance with the principles of the case allocation procedure (principle of identity of the applicable rules); the method of case allocation should be determined according to predefined principles, in a predictable and transparent way, so that subjective decisions cannot play a role in it (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:

According to the provisions of the CCP in relation to the investigating authorities the supervising prosecutor acts as a legal remedy forum (except for cases where remedy can be sought at the court e.g. against decisions concerning property rights) concerning the decisions brought during the investigation, while the senior prosecutor acts as a legal remedy forum concerning the decisions of the subordinated prosecutor.

The decision to investigate an offence is not subject to legal remedy, the criminal proceeding is based on the legality principle and ex officio obligation to act, meaning if there is a simple suspicion of a crime, the authorities are obliged to start an investigation. As such, the senior prosecutor cannot annul this decision, in case the decision was unlawful or is lacking factual basis, in his supervisory rights (based on the Act CLXIII 2011 Art. 13. on the Prosecution Service) can order the subordinated prosecutor to bring a lawful decision.

Section 398 of CCP is about the discontinuation of an investigation, which is subject to legal remedy.

To clarify the role of the senior prosecutor:

Pursuant to Article 29 of the Fundamental Law of Hungary the prosecution service is an independent organ of the administration of justice and is headed by the Prosecutor General. The Prosecutor General leads and directs the Prosecution Service, and he appoints the prosecutors.
As the prosecution service is an independent body, its head, the Prosecutor General is elected by the Parliament. The Prosecutor General is accountable and reports only to the Parliament. Due to the constitutional status of the prosecution service and the Prosecutor General the prosecution service has a hierarchical structure, where all rights and tasks derive from the general accountability of the Prosecutor General, and the Prosecutor General is entitled to exercise all the rights in relation to lower-ranking prosecutors. The Prosecutor General, of course, may and does delegate the power of exercising those rights to lower-ranking head prosecutors.
Act CLXIII of 2011 on the prosecution service of Hungary stipulates that the Office of the Prosecutor General shall exercise control over all prosecution offices, and the Prosecutor General is the highest-ranking superior prosecutor at the Office of the Prosecutor General. Consequently, he may issue specific instructions to lower-ranking prosecutors even in individual cases and may take over any case from them or may appoint another subordinate prosecutor to act in a given case.

The right to issue instructions does not have any organizational constraints, but it has legality constraints. Prosecutors shall refuse to execute the instructions if, by virtue of the execution thereof, they were to

commit a crime or contravention. Prosecutors may refuse to execute the instructions if the execution thereof were to directly and grossly endanger their life, health or physical state; and if prosecutors find the instructions incompatible with provisions of law or their legal conviction, they may request exemption from the administration of the given matter in writing explaining their legal position. Compliance with such a request may not be refused, and another prosecutor shall be entrusted with the administration of such a matter or the superior prosecutor may take the given matter into his/her competence. If the execution of an instruction may cause unlawful damages or the infringement of personality rights, and the prosecutor may foresee this, the prosecutor shall draw the attention of the person giving the instruction thereto. Upon the prosecutor's request the instruction shall be committed to writing.

Relevant provisions of ASPGPC include the following:

Section 53

(1) Prosecutors shall execute the instructions of the Prosecutor General and the superior prosecutors.
(2) At the prosecutor's request, an instruction shall be committed to writing. The prosecutor shall not be obliged to execute the instruction until the commission thereof to writing, except as set forth in Paragraph (7).
(3) The prosecutor shall refuse to execute an instruction if, by virtue of the execution thereof, he/she were to commit a crime or contravention.
(4) The prosecutor may refuse to execute an instruction if the execution thereof were to directly and grossly endanger his/her life, health or physical state.
(5) If the prosecutor finds the instruction incompatible with provisions of law or his/her legal conviction, he/she may request exemption from the administration of the given matter in writing with a view to his/her legal position. Any such request may not be refused; in this case, another prosecutor shall be entrusted with the administration of the given matter or the superior prosecutor may take over the given matter into his/her own competence.
(6) If the execution of an instruction may cause unlawful damage and the prosecutor may foresee this, the prosecutor shall draw the attention of the person giving the instruction thereto.
(7) The prosecutor shall implement an urgent measure, except as set forth in Paragraphs (3) and (4), even if he/she sought exemption from the execution of the instruction.

The superior prosecutor may give his instruction verbally or in writing, and the document recording that fact shall be made part of the case files. There are no statistical or case management data about how many instructions of that type are given.

Text of issue for follow-up 11(k):

k. Whether in practice Act CIV 2001 effectively covers the case where a bribe is offered, promised or given by one legal entity on behalf of 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:

Perpetrators as per the CC can only be natural persons (mens rea requirement) acting on behalf of a legal entity, ergo the commission of the offence (offering, promising, giving a bribe) can be attributed

to them (even if their identity is unknown). If there is such a perpetrator, the liability of the legal person can be established, therefore Act CIV of 2001 cover the described situation.

Text of issue for follow-up 11(l):

l. Whether companies convicted of foreign bribery are suspended in practice from ODA procurement contracting.

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:

Hungary continued its prior practice of addressing foreign bribery risks in development cooperation. The Ministry of Foreign Affairs and Trade (hereinafter: MFA) profoundly scrutinises and vets the partners prior to engaging in ODA-funded operations. The public records of an applicant civil society organisation or firm are examined carefully in order to minimise the risk of corruption and to enhance the transparency of the elimination process. (For obtaining information about partners' background, two channels are utilised (MoJ channel and private register), which contain a complete and detailed history of the Hungarian companies, including foreign subsidiaries. Further information on the private register can be found here: https://www.opten.hu/rolunk .)

The implementation of development projects are fully monitored by the Hungarian embassies and the assigned staff of the MFA. The monitoring likewise involves scrutinising activities with a view to uncovering potential acts of bribery that would warrant the suspension or voiding of a contract. The active monitoring activities include the donor's right to conduct field visits, thus providing the grantor an opportunity to inspect the implementation with even greater thoroughness. The grant agreement contains a provision that reserves the right of the donor to suspend or terminate the agreement in judicially proven cases of fraud, corruption and bribery of officials. In this case, the beneficiary of the grant is obliged to repay the total amount of the grant to the donor. The monitoring is systematic and based on criteria pre-determined by MFA. Furthermore, MFA routinely checks the World Bank's cross-debarment list for foreign cooperation partners.

Since the Phase 4 Evaluation, Hungary has **not detected any foreign bribery case related to international development projects.**

PART III: DISSEMINATION OF EVALUATION REPORT

Please describe the efforts taken to publicise and disseminate the Phase 4 evaluation report:

https://oecd.kormany.hu/magyarorszagnak-hatekonyabban-fel-kell-lepnie-a-gazdasagi-tarsasagok-es-azok-kulfoldi-leanyvallalatainak-nemzetkozi-vesztegetesevel-szemben

We published the report on the Government's official website and had discussion with relevant minsitries. See the link above.

www.oecd.org/corruption