

Act XXVII of 2022

on the control of the use of European Union budget funds

The National Assembly, in order to establish an institutional system for a more effective control of the use of European Union budget funds and to comply with the measures proposed in the procedure under Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget, adopts the following Act:

PART ONE

THE INTEGRITY AUTHORITY

Chapter I

DUTIES OF THE INTEGRITY AUTHORITY

1. Status of the Integrity Authority

Section 1 (1) The Integrity Authority (hereinafter the “Authority”) shall be an autonomous state administration organ.

(2) The Authority, including its president, vice-presidents and entire personnel, shall be completely independent in the performance of its tasks, shall be subordinated only to law, shall not be instructed by another person or organ in the exercise of its functions, and shall be obliged to perform its tasks separately from other organs and without any interference from any other institution, organ, political party, company, association, or legal or natural person. The tasks of the Authority may be set out only in an Act.

(3) The seat of the Authority shall be in Budapest.

Section 2 (1) The Authority shall be a central budgetary organ with the status of an organ in charge of managing a budget heading.

(2) The budget of the Authority shall be a separate heading in the structure of the central budget.

(3) The Authority shall draw up the proposal for its budget and the account on the implementation of its budget, and the Government shall submit them without change to the National Assembly as part of the legislative proposal for the central budget and on its implementation.

(4) The budget of the Authority may be reduced only with the consent of the Authority.

2. Performance of the duties of the Authority

Section 3 The Authority shall take action in all cases where the Authority considers that an organisation, including a contracting party, vested with functions and powers regarding the use, or the control of the use, of European Union funds has not taken the necessary steps to prevent, detect and correct fraud, conflicts of interest, corruption and other illegalities or irregularities that affect or seriously risk affecting the sound financial management of the European Union budget or the protection of the financial interests of the European Union. The Authority shall have powers, in particular, as regards any planned, ongoing or past measures and projects receiving, in part or in whole, financial support from the European Union. Removal of a project from European Union financing shall not affect the powers of the Authority where the fraud, conflict of interest, corruption and other illegalities or irregularities affect or seriously risk affecting the sound financial management of the European Union budget or the protection of the financial interests of the European Union.

Section 4 (1) The Authority shall proceed with its tasks upon request, *ex officio*, or upon report or complaint. By way of derogation from section 1 (2) of Act CLXV of 2013 on complaints and public-interest reports (hereinafter the “Complaints Act”), a complaint may be submitted even if another procedure applies to handling it. The Authority may act within its functions on the basis of any information available to it.

(2) Any person who detects any illegality or irregularity affecting the functions of the Authority may file a report or complaint with the Authority. By way of derogation from section 1 (4) of the Complaints Act, a report and a complaint may also be submitted directly to the Authority, regardless of which organ is entitled to proceed in the matter.

(3) With the exception of the derogations set out in paragraphs (1) and (2), the provisions of the Complaints Act shall apply accordingly to a report and complaint referred to in paragraph (2).

(4) With a view to receiving reports and complaints, the Authority shall maintain a reporting interface that ensures the anonymity of reporting persons and complainants and enables confidential communication. Persons submitting a report or complaint may communicate with the Authority by means other than the reporting interface.

(5) The reporting interface shall be designed in a way that ensures the anonymity of reporting persons and complainants and prevents unauthorised persons from learning their identity. Those investigating the reports and complaints shall keep confidential information on the content of the report or complaint and on persons mentioned in the report or complaint, and shall not share such information with other organs.

Section 5 (1) Within its tasks to do analyses and make proposals, the Authority

- a) shall carry out integrity risk assessment exercise;
- b) shall prepare an analytical integrity report every year;
- c) shall issue recommendations on an annual or *ad hoc* basis.

(2) Within its investigative functions and powers, the Authority

- a) may conduct investigation procedures;
- b) may call upon an organisation vested with functions and powers regarding the control of the use of European Union funds to institute proceedings;
- c) may apply to another organ for the initiation of proceedings;
- d) may bring before the court actions for failure to act and other actions.

(3) Within its administrative authority powers, the Authority

- a) shall conduct administrative audits in connection with public procurements financed or planned to be financed, in part or in whole, from European Union funds;
- b) may impose information obligations as regards public procurements financed from European Union funds;
- c) shall maintain a register of legal persons, individual firms and private entrepreneurs (hereinafter jointly “economic operator”) who are excluded, in connection with certain criminal offences, from public procurement procedure.

(4) The Authority shall verify, as provided for in law, the declarations of conflict of interest made by the employees of the audit body for European funds and the Internal Audit and Integrity Directorate.

(5) The Authority shall perform the tasks set out in the Act on Government Administration in connection with the operation of the Internal Audit and Integrity Directorate.

(5a) At the request of the Authority, the Internal Audit and Integrity Directorate shall without delay provide the Authority access to declarations of conflict of interest and declarations of interests managed by the Internal Audit and Integrity Directorate and to all documents necessary for the exercise of the powers of the Authority.

(6)

Section 6 The functions and powers of the Authority shall be without prejudice to the functions of, and the exercise of powers by, other organs, in particular to the tasks of organs set up for the management of European Union funds and their role defined in the management and control system.

Section 7 (1) The conflict of interest rules laid down in Act CVII of 2019 on special status organs and the legal status of persons employed by them (hereinafter the “Special Status Organs Act”), and in particular the rules under section 24 of the Special Status Organs Act on having no criminal record, having particular regard to the ground for exclusion relating to corruption-related criminal offences, and the rules under section 51 of the Special Status Organs Act on the employment of relatives and conflict of interest, shall apply to the public officials of the Authority.

(2) The Authority shall take appropriate measures to prevent, detect and remedy situations that can be considered objective conflict of interest as regards persons involved in the exercise of its powers and the performance of its tasks.

(3) For the purposes of paragraph (2), conflict of interest exists, in particular, where the impartial and objective performance of a task is compromised for reasons relating to family, emotional life, political sympathy or commitment or national attachment, or due to any economic interest or other direct or indirect personal interest.

3. Conclusion of agreements by the Authority

Section 8 (1) The Authority may conclude agreements with other state organs and non-state entities on communication and exchange of information as well as to facilitate practical arrangements for the exercise of its powers within its functions. The agreements may only be concluded in compliance with the requirements for the protection of personal data and other data.

(2) Without prejudice to the rules on international judicial cooperation, the Authority may conclude cooperation agreements with European Union bodies.

Chapter II

TASKS OF THE AUTHORITY TO DO ANALYSES AND MAKE PROPOSALS

4. Integrity risk assessment

Section 9 (1) The Authority shall conduct integrity risk assessment exercise for the protection of European Union funds, which shall include an evaluation of the integrity state of play of the public procurement system in Hungary.

(2) The integrity risk assessment shall identify integrity risks and systemic issues to be addressed, means available to address them, deficiencies in addressing such risks and issues as well as solutions.

(3) Integrity risk assessment shall be carried out in cooperation and in consultation with international organisations with an internationally recognised integrity assessment methodology, including where possible, the Organisation for Economic Cooperation and Development. The Authority shall take into account also feedback from national and international non-governmental organisations monitoring integrity in Hungary.

(4) The integrity risk assessment of the public procurement system shall be carried out in accordance with an internationally recognised methodology for the evaluation of public procurement systems.

(5) The Authority shall publish on its website the methodology applied for integrity risk assessment.

Section 10 (1) A report shall be drawn up of the integrity risk assessment providing a comprehensive overview of the specific integrity risks concerning the implementation of financial support from the European Union budget, in particular in the field of public procurement.

(2) In carrying out its tasks, the Authority shall pay particular attention to the report and shall take it into account when preparing the annual analytical integrity report. The report shall serve as a basis for the development of integrity risk indicators.

5. Annual analytical integrity report

Section 11 The Authority shall draw up an analytical integrity report every year that shall include the following:

a) full-fledged and comprehensive analysis of the concentration of the public procurement market in the context of the use of European Union funds as well as the difference between estimated value and contract amount in public procurement procedures and the possible reasons for it;

b) assessment of the effectiveness of applicable rules in areas covered by the functions of the Authority, analysis of the bottlenecks encountered in the implementation of those rules as well as of practices of entities responsible for applying the law and administrative practices, and identification of risk indicators;

c) analysis of the practice of using framework agreements and contracts concluded under framework agreements, including the distribution among individual economic operators of framework agreements and specific contract awards based on framework agreements;

d) assessment of the control system in place for monitoring the use of European Union funds regarding the identification and effective prevention of risks of corruption, fraud and conflicts of interest, and the detection and remedying of such cases;

e) recommendations on issues under points *a)* to *d)*; and

f) evaluation of how organs vested with functions and powers regarding the control of the use of European Union funds have taken into account previous reports and recommendations, and in particular recommendations under section 15.

Section 12 (1) The Authority shall send, for information, the annual analytical integrity report to the National Assembly.

(2) Each year, the annual analytical integrity report for the previous calendar year shall be made publicly available on the website of the Authority by 30 June.

Section 13 Within three months of the publication of the annual analytical integrity report, the Government shall present in its reply to the Authority how it will address the findings made in the annual analytical integrity report.

6. Issuing a recommendation

Section 14 (1) The Authority shall issue recommendations to organisations using, or vested with functions and powers regarding the control of the use of, European Union funds on the prevention, detection and remedying of fraud, corruption and conflicts of interest that are related to the implementation of support from the European Union budget, in particular through public procurement procedures, and that influence or seriously jeopardise the sound financial management of the European Union budget or the protection of the financial interests of the European Union.

(2) The Authority shall issue its recommendations in the annual analytical integrity report. In addition to recommendations in the annual analytical integrity report, the Authority may also issue *ad hoc* recommendations.

Section 15 (1) The Authority may, upon report, upon complaint, *ex officio* or at the request of the contracting authority, issue a recommendation to a specific contracting authority, prior to or in the course of a public procurement procedure financed or planned to be financed, in part or in whole, from European Union funds, requesting the contracting authority

- a) to apply a specific type of public procurement procedure;
- b) to apply a certain specific procurement method;
- c) to refrain from applying one or more types of public procurement procedures or from applying any of the related practices;
- d) to refrain from applying one or more specific procurement methods or any related practices; or
- e) to prescribe in the call for competition the application of one or more grounds of exclusion referred to in section 63 (1) of Act CXLIII of 2015 on public procurement (for the purposes of this Part, hereinafter the “Public Procurement Act”);
- f) to cease any other unlawful behaviour

in a public procurement procedure financed, in part or in whole, from specific European Union funds or in the course of its public procurement procedures financed, in part or in whole, from certain future European Union funds.

(2) In the recommendations referred to in paragraph (1), the Authority shall in particular specify

- a) the public procurement procedures or categories of public procurement procedures concerned;
- b) the contracting authorities concerned;
- c) the requirements relating to the contracting authorities;
- d) the reasons for the recommendation and how it relates to the functions of the Authority.

(3) If the contracting authority affected by a recommendation under this section does not act in accordance with the recommendation issued by the Authority, it shall give detailed reasons for its decision in writing and send to the Authority the statement of reasons.

(4) As regards an illegality of the contracting authority in relation to a recommendation of the Authority, the Authority may apply to the competent organ or court for the initiation of proceedings, and in particular, as regards an illegality relating to public procurement, it may apply to the Public Procurement Arbitration Board for the initiation of proceedings pursuant to section 152 (1) *o*) of the Public Procurement Act. In accordance with the applicable procedural rules, the Authority may request the adoption of interim measure.

Section 16 (1) The Authority may, upon report, upon complaint, *ex officio* or at the request of the contracting authority, examine whether any of the grounds for exclusion under section 61 (1) and (2) of the Public Procurement Act or, if prescribed by the contracting authority in the procedure, under section 63 (1) of the Public Procurement Act are applicable to a specific economic operator in the course of the evaluation of tenders and requests to participate in a public procurement proceeding financed, or intended to be financed, from European Union funds.

(2) In a situation under paragraph (1), the Authority shall examine whether one or more grounds for exclusion being the subject of the proceeding may be applied in the public procurement procedure financed, or intended to be financed, from European Union funds. During the period of examination, the contracting authority shall suspend the public procurement proceeding. The Authority shall make a recommendation where the inappropriate application of a ground for exclusion other than a ground for exclusion relating to fraud, corruption or a conduct related to a criminal organisation may jeopardise the financial interests of the European Union.

(3) The Authority shall, within 15 days from the request of the contracting authority according to paragraph (1), send its recommendation to the contracting authority or inform the contracting authority that it does not make a recommendation in relation to its functions.

(4) The president of the Authority may, in justified cases, extend the time limit referred to in paragraph (3) by 15 days once.

(5) If the contracting authority acts contrary to the recommendation of the Authority, it shall send to the Authority a detailed statement of reasons within 15 days. The contracting authority shall publish the statement of reasons in the summary on the evaluation of the requests to participate and the tenders. As regards an illegality relating to public procurement, the Authority may apply to the Public Procurement Arbitration Board for the initiation of proceedings pursuant to section 152 (1) *o*) of the Public Procurement Act.

Chapter III

PROCEEDINGS BY THE AUTHORITY

7. Investigation procedure of the Authority

Section 17 (1) The Authority shall conduct an investigation procedure to identify the circumstances that have or can have the effect of prejudicing the implementation of any European Union financial support.

(2) The Authority shall notify of the institution of the investigation proceedings the person or organisation concerned, as well as the minister responsible for the use of European Union funds, the head of the audit body for European funds, and, where the investigation relates to a public procurement procedure financed from European Union funds, any organ carrying out *ex ante* and embedded audits in accordance with the legislation governing the use of European Union funds. Following notification, the person or organisation concerned by the investigation procedure shall inform the Authority without delay of any remedy proceedings conducted by the Public Procurement Arbitration Board or proceedings by the court being pending in relation to the investigation proceedings.

(3) The Authority shall not exercise its powers if as regards an alleged illegality in which it intends to act any remedy proceedings conducted by the Public Procurement Arbitration Board or proceedings by the court are pending.

(4) The investigation procedure of the Authority under this subtitle shall not constitute an administrative authority procedure and no administrative court action shall be brought in relation to the activities of the Authority under this subtitle.

Section 18 (1) In the investigation procedure, the Authority shall assess all available information relevant to its tasks. With a view to carrying out its tasks, the Authority may request any person or organisation concerned in a particular case to provide information relating to its functions and powers.

(2) The Authority may request an organisation vested with functions and powers regarding the control of the use of European Union funds to carry out acts of evidentiary nature on its behalf; the requested organisation shall act in accordance with the rules on its control. To a request by the Authority, the provisions of section 25 shall apply accordingly.

(3) In the course of the investigation procedure under this Chapter, in accordance with the law, the Authority may carry out the following acts as acts of evidentiary nature:

a) accessing and making copies of all data related to the case under investigation processed by the investigated controller, and inspecting and requesting copies of all such documents, including documents stored on an electronic data-storage medium;

b) requesting written and oral information from the investigated controller or any co-worker of the investigated controller;

c) requesting written and oral information from any organisation or person related to the case under investigation, and copies of any data or document, including documents stored on an electronic data-storage medium, related to the case under investigation.

(4) In the course of its proceedings, the Authority may process, to the extent necessary for the conduct of the proceedings, all personal data, as well as data classified as secret protected by law and secret related to the exercise of a profession, that are related to the investigation and the processing of which is necessary for the effective conduct of the investigation.

(5) When conducting an investigation, the public official of the Authority may, in accordance with the provisions of the Act on the protection of classified data, access, make extracts and copies of, and hold, classified data necessary for the conduct of the investigation.

(6) The investigated controller and any other organisation or person affected by the procedural act shall comply with the data request of the Authority under paragraph (1) within the time limit of not more than 60 days set by the Authority. In a situation referred to in paragraph (3) *b*) and *c*), the time limit set by the Authority shall not be shorter than fifteen days.

(7) The requested person may refuse to provide information under paragraph (3) *b*) and *c*) if

a) the person concerned by the investigation of the Authority is a relative of his within the meaning of the Act on the Civil Code;

b) by providing information, he would incriminate himself or his relative within the meaning of the Act on the Civil Code of committing a criminal offence, as regards a related question.

(8) In the event of a data request by the Authority, it shall be given access to the information necessary for the performance of its tasks relating to public procurement. At the request of the Authority, the contracting authority whose procedure is affected by the investigation of the Authority shall make available to the Authority all documents generated during the preparation and conduct of the public procurement procedure and the performance of the public contract. The Authority shall also be entitled to request information and documents relating to also public procurement procedures still under preparation and pending.

(9) Where the investigation of the Authority concerns a public procurement procedure which is subject to public procurement monitoring obligation under the legislation governing the use of European Union funds, the Authority shall be entitled to request from the organisation controlling the use of European Union funds any information available to it as a result of control. The organisation controlling the use of European Union funds shall provide the Authority with the requested information within 8 days.

(10) In a proceeding under this subtitle, the Authority shall not have the power to carry out any act of evidentiary nature other than a call for data provision and the evaluation of public information, but it shall be entitled to request the organisation vested with relevant functions and powers to do so; the latter shall without delay provide information to the Authority about the outcome of its proceedings, including the process of clarifying the facts of the case.

(11) The Authority shall erase the data processed by it without delay if the purpose of data processing by the Authority no longer exists.

(12) Documents and physical means of evidence obtained during the investigation by the Authority shall not be public.

Section 19 (1) In the course of its proceedings, the Authority shall assess the information obtained by issuing a report.

(2) Before issuing the report, the Authority may provide the person or organisation affected by the report with an opportunity to comment on the draft report within an appropriate time limit.

(3) In order to facilitate the provisions of section 3, the Authority may make recommendations to the investigated person or organisation, setting also time limits.

(4) The investigated person or organisation shall inform the Authority of the implementation of the provisions of paragraph (3), or of its disagreement with the recommendations and the reasons for it.

(5) Should the Authority identify any anomaly regarding the use of European Union funds or consider inappropriate the implementation of its proposals for action, it may apply to the competent authority or court for the initiation of proceedings in accordance with this Act.

8. Certain functions and powers of the Authority relating to public procurements implemented using European Union funds

Section 20 (1) The Authority shall carry out the investigation under section 17 (1) relating to a public procurement implemented using European Union funds within the framework of an administrative audit within the meaning of Act CL of 2016 on the Code of General Administrative Procedure (hereinafter: Code of General Administrative Procedure).

(2) In proceedings under this subtitle, the Authority shall act in its capacity as an administrative authority.

Section 21 (1) If in the course of an administrative audit the Authority detects a suspicion of fraud, corruption, conflict of interest or other serious illegality or irregularity that affects or risks affecting, as regards Union budgetary funds, the sound financial management or the financial interests of the European Union, it may order in a procedural decision that the public procurement procedure financed using European Union funds be suspended for a period not exceeding two months. In the procedural decision on suspension, the Authority shall present the facts and the legal assessment substantiating the suspicion that the acts under this paragraph have been committed.

(2) The procedural decision may be challenged in a non-contentious administrative proceeding within 3 days; the Authority shall forward the application to the court within 3 days of receipt. The court shall decide on the application within 30 days.

Section 22 (1) The Authority may in a conclusive decision oblige specific contracting authorities to inform in specific cases the Authority of launching a public procurement procedure that is financed using European Union funds. The Authority shall send, for information, the conclusive decision to the Minister responsible for European Union funds.

(2) In the conclusive decision referred to in paragraph (1), the Authority shall, on the basis of the risk of fraud, conflict of interest, corruption or any other illegality or irregularity in respect of the specific public procurements, determine the sectors, subject-matters of procurement and thresholds regarding which it requests information.

(3) The Authority shall determine and publish in advance the risk indicators, the legal practice of courts, the Public Procurement Arbitration Board or other authorities, or the monitoring experience of the European Commission or the national controlling organisations, on the basis of which it requests information pursuant to this section.

Section 23 In the event of non-compliance with the obligation set out in section 21 (1) and section 22 (1), the Authority shall impose an administrative fine on the contracting authority. The amount received from fine shall constitute the own revenue of the Authority.

9. Initiation of proceedings

Section 24 (1) The Authority shall notify accordingly the competent authority or organisation, including the European Anti-Fraud Office and, together with sending the notification also to the prosecution service, the European Public Prosecutor's Office, if it detects a suspicion of fraud, conflict of interest, corruption or any other illegality or irregularity. Public officials of the Authority shall be subject to the crime reporting obligation in accordance with section 376 (2) of Act XC of 2017 on the Code of Criminal Procedure.

(2) Where the Authority considers that it is justified, on the basis of evidence in its possession, to institute a competition supervision proceeding, it shall without delay forward the evidence available to it to the Hungarian Competition Authority observing Article 4 (2) (b) of Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market.

(3) If in the course of its investigation the Authority detects a suspicion of irregularity, it shall be entitled to apply to the competent managing authority or, in the case of a project financed from the Recovery and Resilience Facility, the national authority for the initiation of an irregularity proceeding in accordance with the provisions of the legislation governing the use of European Union funds.

(4) If the Authority becomes aware of any conduct or omission that is in breach of the Act on public procurements or a decree adopted on the basis of authorisation by the Act on public procurements, it may apply to the Public Procurement Arbitration Board for the initiation of proceedings pursuant to section 152 (1) o) of the Public Procurement Act.

Section 25 (1) To carry out its supervisory or control tasks, the Authority may call upon an organisations vested with functions and powers regarding the control of the use of European Union funds to institute proceedings. Upon the call of the Authority, the organisation vested with the relevant functions and powers shall institute the proceeding *ex officio*.

(2) The organisation vested with functions and powers regarding the control of the use of European Union funds may reject a call from the Authority only if complying with it would result in a violation of law.

(3) In a proceeding under this section which falls within the scope of the Code of General Administrative Procedure, the Authority shall have the status of a party.

(4) The Authority may at any time make statements and comments and request information during a proceeding by the organisation vested with functions and powers regarding the control of the use of European Union funds which does not fall within the scope of the Code of General Administrative Procedure.

(5) An organisation vested with functions and powers regarding the control of the use of European Union funds shall be obliged to cooperate with the Authority; in this context it shall inform the Authority of the commencement of its proceedings and the outcome of the proceedings without delay.

Section 26 The Authority may call upon the supervisory authority concerned to proceed in accordance with section 15 (2) of the Code of General Administrative Procedure and may bring an action before the court for failure to act in accordance with the provisions of Act I of 2017 on the Code of Administrative Court Procedure if the authority vested with the relevant functions and powers failed to comply with its obligation to proceed under section 18 (2) or section 25 (1).

Section 27 (1) The Authority may challenge, in an administrative court action, any conclusive decision adopted by the Public Procurement Arbitration Board or another authority concerning a public procurement procedure that relates to European Union support. In the administrative court action, the Authority shall be entitled to, in particular, apply for interim relief in accordance with Chapter IX of Act I of 2017 on the Code of Administrative Court Procedure.

(2) The Authority may bring the administrative court action in accordance with the provisions of Act I of 2017 on the Code of Administrative Court Procedure, within the following time limits:

a) if it challenges a conclusive decision of the Public Procurement Arbitration Board referred to in paragraph (1), then, notwithstanding section 170 (2) of the Public Procurement Act, within 90 days of the publication of the decision;

b) if it challenges a conclusive decision of another authority, then within 90 days after it became aware of the decision.

Section 27/A In the case of a special criminal offence related to the exercise of public authority or the management of public property, the Authority may submit a motion for revision and a motion for repeated revision in accordance with the Act on the Code of Criminal Procedure.

CHAPTER IV

REGISTER OF ECONOMIC OPERATORS EXCLUDED FROM PUBLIC PROCUREMENT PROCEDURES

10. Content and purpose of the register

Section 28 (1) The Authority shall record the data referred to in section 31 (1) of an economic operator in the register of economic operators excluded from public procurement procedures (hereinafter the “register”) if the court has established in a final and binding conclusive decision that the economic operator or an executive officer or supervisory board member of the economic operator, its general manager, or its beneficial owner within the meaning of section 3 38 of Act LIII of 2017 on the prevention and combating of money laundering and terrorism financing, is a person who had committed a criminal offence under section 62 (1) *a) aa) to ag)* of the Public Procurement Act.

(2) For the purpose of verifying the existence of a ground for exclusion under section 62 (1) *a) aa) to ag)* of the Public Procurement Act, the data referred to in section 31 (1) *a)* and *d)* shall be published in the electronic public procurement system operated by the Minister responsible for public procurement.

(3) When dealing with registration, the Authority shall establish the period for which a ground for exclusion under section 62 (1) *a) aa) to ag)* of the Public Procurement Act applies in respect of the economic operator; this period shall not exceed four years from the date on which the conclusive decision referred to in paragraph (1) becomes final and binding.

11. Keeping the register and self-cleaning

Section 29 (1) The Authority shall keep the register exercising official authority.

(2) The Authority shall carry out the registration procedure *ex officio*. Where the Authority becomes aware of the data giving rise to the opening of the registration procedure on the basis of a complaint or report, it shall request the competent authority to supply the data necessary for registration.

(3) The Authority shall notify the economic operator of the commencement of the registration procedure and, at the same time, invite it to state its comments and self-cleaning measures demonstrating its reliability within 8 days from the date of notification.

(4) In order to self-clean, the economic operator shall declare the measures taken and submit related evidence; the Authority shall, within 20 days from their receipt, assess these in order to decide whether to include the economic operator in the register. In its assessment, the Authority shall take into account the gravity and specific circumstances of the criminal offence.

(5) To demonstrate its reliability, an economic operator who is subject to a ground for exclusion shall, in particular, demonstrate that

a) it compensated for, or committed to compensate within a set time limit for, the damage caused by the criminal offence to an extent accepted by the injured party;

b) actively cooperating with the organs vested with the relevant functions and powers, it comprehensively clarified the facts and circumstances of the case; and

c) it has taken technical, organisational and personnel measures that are suitable for preventing further criminal offences.

Section 30 (1) During the period of exclusion set by the Authority, an economic operator may submit a self-cleaning application to the Authority for removal from the register.

(2) The Authority shall consider the application on the basis of the criteria set out in section 29 (4) and (5). If the Authority grants the application referred to in paragraph (1), it shall remove the economic operator from the register.

(3) Should the Authority dismiss an application, the economic operator may submit an application again as regards a ground for exclusion having the same basis if it wishes to demonstrate its reliability by a substantive measure taken following the dismissal of its previous application.

12. Data recorded in the register

Section 31 (1) The register shall contain the following:

a) name, tax number and seat of the economic operator;

b) natural identification data of the person referred to in section 28 (1);

c) for a criminal offence under section 62 (1) *a) aa)* to *ag)* of the Public Procurement Act, name and qualification of the criminal offence, designation of the court that delivered the final and binding conclusive decision establishing guilt, number and date of the decision, and day of it becoming final and binding;

d) period of exclusion from public procurement procedures; and

e) day of registration.

(2) The Authority shall receive via direct data link the following data:

a) with the exception of points *b)* and *c)*, the natural identification data of the executive officer, supervisory board member or general manager of the economic operator, from the company information system;

b) the natural identification data of private entrepreneurs from the private entrepreneur register;

c) the natural identification data and address data of the beneficial owner of the economic operator available in the beneficial owner register provided for in section 3 14 of Act XLIII of 2021 on the establishment and operation of a data provision background for the identification tasks of financial and other service providers (hereinafter the “beneficial owner register”) from the beneficial owner register;

d) for a person referred to in points a) to c), the data under paragraph (1) c) from the criminal records system.

(3) The Authority shall be entitled to receive via direct data link pursuant to paragraph (2) d) data pursuant to section 67 (1) b) of Act XLVII of 2009 on the criminal records system, the register of judgments handed down against Hungarian nationals by courts of the Member States of the European Union and the register of criminal and law enforcement biometric data if

a) it has communicated in its data request the family name and given name of the person concerned, the place and date of birth and the mother's family name and given name at birth, and

b) against the person included in the data request the commission of the criminal offences under section 62 (1) a) aa) to ag) has been established by a court in a final and binding conclusive decision within four years prior to the date of the data request, and the person concerned has not yet been relieved from the adverse legal consequences of having a criminal record.

(4) The Authority shall receive via direct data link the following data:

a) with the exception of point c), name, tax number, seat of the economic operator and the fact of its termination from the company information system;

b) data on the criminal law measure applied against the company from the company information system;

c) name, tax number, seat of the private entrepreneur and data on the termination of entrepreneurial activity from the private entrepreneur register.

(5) After the data of the economic operator referred to in paragraph (1) have been recorded in the register, the Authority shall erase the data received.

(6) The Authority shall *ex officio* remove the economic operator from the register upon expiry of the period set by the Authority. The Authority shall *ex officio* remove the economic operator from the register if the economic operator no longer exists or, in the case of a private entrepreneur, if it is no longer eligible for pursuing entrepreneurial activities.

(7) With the exception of publication pursuant to section 28 (2), data processed in the register may, upon request to that effect, be transferred exclusively

a) to the court acting within its functions laid down in an Act for the conduct of proceedings pending before it;

b) to the prosecution service and the investigating authority acting within its functions laid down in an Act for the conduct of criminal proceedings;

c) to an organ acting within its functions laid down in an Act other than the organs referred to in points a) and b) that is authorised by law to access the data for the successful conduct of the proceedings pending before it.

CHAPTER V

ORGANISATION OF THE AUTHORITY

13. President and vice-presidents of the Authority

Section 32 (1) The Authority shall be headed by the president, who shall discharge his duties in cooperation with two vice-presidents on the Board of the Authority.

(2) The president shall exercise the functions and powers of the Authority in accordance with the decision of the Board of the Authority.

Section 33 (1) The president of the Authority

a) shall head the work organisation of the Authority, determine in the organisational and operational regulations the organisation and core headcount of the Authority and the order of authentic copy issue;

b) shall represent the Authority;

c) shall exercise the powers assigned to the head of the office organisation under the Special Status Organs Act or other Acts;

d) shall perform, with regard to the budget of the Authority, all the tasks conferred on the head of an organ in charge of managing a budget heading by the Act on public finances.

(2) The president of the Authority shall exercise the powers referred to in paragraph (1) autonomously.

14. The Board of the Authority

Section 34 (1) The Board of the Authority shall be the main decision-making body of the Authority that is composed of the president and two vice-presidents of the Authority.

(2) The Board of the Authority shall take its decisions directly related to the exercise of the functions and powers of the Authority collegially by majority decision making.

(3) The Board of the Authority shall give an account annually to the National Assembly of its activities. The account shall be sent also to the European Commission.

15. Status of the president and the vice-presidents

Section 35 (1) The president and vice-presidents of the Authority shall be appointed by the President of the Republic for six years on a proposal from the President of the State Audit Office. The president and the vice-presidents shall not be reappointed.

(2) In his proposal, the President of the State Audit Office shall nominate a person from among those on the list referred to in section 37 (3).

(3) The president and vice-presidents of the Authority shall carry out their activities under a public service relationship; the provisions of the Special Status Organs Act shall apply to this relationship with the derogations provided for in this Act.

Section 36 A person may be appointed as president or vice-president of the Authority only if that person, in addition to meeting the requirements set out in the Special Status Organs Act,

a) holds a university degree in the field of law, economics or finance;

b) is independent beyond doubt;

c) has extensive professional experience or academic portfolio in the fields of law or finance relating to public procurement and the fight against corruption, and has international background and experience, including European Union affairs;

d) has not held a post or mandate referred to in section 42 (1) *a)* or *b)* within 5 years prior to the nomination;

e) has made a declaration of conflict of interest in accordance with section 43; and

f) has made a declaration of assets in accordance with section 44 (1).

Section 37 (1) The Committee on Eligibility Responsible for the Selection of Members of the Board of the Authority (hereinafter the “Eligibility Committee”) shall announce an open and public call for applications for the positions of the president and vice-presidents of the Authority.

(2) The call for applications shall be valid if the number of applicants is at least twice the number of positions to be filled. If a call for applications is invalid, it shall be announced once again. A repeated call for applications shall be valid if the number of applicants is at least twice the number of positions to be filled.

(3) From among the applicants, considering their professional merits, knowledge and qualifications, the Eligibility Committee shall determine the list of persons who are found eligible for the position of the president and vice-presidents of the Authority and who, thus, can be proposed for those positions.

(4) In addition to assessing eligibility, and without prejudice to the nomination and appointment procedure, the Eligibility Committee may in its opinion contribute to an informed decision on the nomination of the president and vice-presidents of the Authority also in other ways.

Section 38 (1) The monthly remuneration of the president of the Authority shall amount to 80% of the monthly wage referred to in section 149 (1) of Act CXXXIX of 2013 on the Hungarian National Bank.

(2) The monthly remuneration of the vice-presidents of the Authority shall amount to 80% of the monthly wage referred to in section 149 (2) of Act CXXXIX of 2013 on the Hungarian National Bank.

(3) The president of the Authority shall be entitled to the same benefits as a Minister, and the vice-presidents of the Authority shall be entitled to the same benefits as a permanent state secretary.

(4) Each calendar year, the president of the Authority shall be entitled to twenty, and the vice-presidents of the Authority to fifteen, working days of executive additional annual leave.

Section 39 (1) The legal relationship of the president and vice-presidents of the Authority shall terminate

a) upon expiry of the term of appointment;

b) upon death;

c) upon resignation;

d) in a situation under paragraph (7).

e)

(2) The president and vice-presidents of the Authority may resign from office at any time by tendering a resignation in writing to the President of the State Audit Office. In the event of resignation, the resignation period shall be 60 days after the submission of resignation. Acceptance of the resignation shall not be required to make it effective. The resignation shall not require reasoning.

(3) In the event of resignation, the President of the Republic shall, upon a motion from the President of the State Audit Office, declare the legal relationship of the president or vice-president of the Authority terminated.

(4) The President of the State Audit Office may bring an administrative court action for the termination of the legal relationship of the president or vice-president of the Authority if

a) the Eligibility Committee initiates the termination of the legal relationship of the president or vice-president of the Authority in accordance with section 43 (3), 43 (7) or 44 (7); or

b) the requirements for appointment are no longer met.

(5) At the same time, the President of the State Audit Office shall send the statement of claim under paragraph (4) also to the president or vice-president concerned.

(6) In the court proceeding pursuant to paragraph (4), the court shall act in accordance with the rules governing court proceedings relating to public service relationship, with the proviso that the action shall be brought against the president or vice-president of the Authority and fall within the exclusive jurisdiction of the Budapest-Capital Regional Court. The court shall determine the action within thirty days.

(7) If the court finds that the action brought by the President of the State Audit Office under paragraph (4) is well-grounded, it shall terminate by its decision the legal relationship of the president or vice-president of the Authority. The judgment of the court may be appealed.

(8)

Section 40 (1) When the legal relationship of the president or a vice-president of the Authority terminates under section 39 (1) *a*), the president or vice-president concerned shall be entitled to severance pay equal to twice the monthly remuneration at the time of termination.

(2) For a period of one year after the termination of the legal relationship, the president and vice-presidents of the Authority

a) may not enter into an employment relationship or other employment-related relationship with a company; and

b) may not acquire shares in a company

whose right or legitimate interest was affected by a specific decision of the Authority during the term of office of the president or vice-president concerned.

(3) Taking into account the prohibition on employment provided for in paragraph (2), upon the termination of their legal relationship, the president and the vice-presidents of the Authority shall be entitled to an amount equal to their net income, that is, their income not including income tax and contributions they received from the Authority in the previous 6 months, provided that they have held the office for a period of at least one year, but less than three years, or in the previous 12 months, provided that they have held the office for a period of three years or more; this amount shall be paid from the budget of the Authority.

(4) The President of the State Audit Office and the Eligibility Committee shall be responsible for ensuring that in the event of the termination of the legal relationship of the president or vice-president of the Authority under section 39 (1) *a*), the procedure for the appointment of a new president or vice-president of the Authority be completed by the termination of the legal relationship of the president or vice-president of the Authority under section 39 (1) *a*).

Section 41 Decisions by the President of the Republic under this subtitle shall not require counter-signature from a member of the Government.

16. Conflict of interest relating to the president and vice-presidents

Section 42 (1) The president and vice-presidents of the Authority shall not be any of the following:

a) President of the Republic, Prime Minister, Minister, political director of the Prime Minister, government commissioner, prime ministerial commissioner, prime ministerial agent, ministerial commissioner, state secretary, permanent state secretary, deputy state secretary, head of a capital or county government office, Mayor of Budapest, deputy mayor of Budapest, mayor, deputy mayor, local government or county local government representative, president and vice-president of a county general assembly, Member of the National Assembly and Member of the European Parliament;

b) member of a political party or a political party foundation or a person having an employment relationship with a political party or a political party foundation, including any activity carried out on a voluntary basis or for remuneration;

c) executive officer, management member, supervisory board member or general manager of a company.

(2) The president and vice-presidents of the Authority shall not have an ownership share in a company.

(3) With the exception of scientific, university and college lecturing, artistic, reviewer and editorial activities, and intellectual activities falling under legal protection, the president and vice-presidents of the Authority may not engage in any other gainful occupation, and may not receive remuneration for any other activity, except for scientific, lecturing, artistic, reviewer and editorial activities, intellectual activities falling under legal protection, and activities performed under foster parent occupational relationship.

(4) The president and vice-presidents of the Authority may not engage in party-political activities or undertake public appearances in the name or on behalf of a political party.

Section 43 (1) The person proposed as president or vice-president of the Authority shall declare to the Eligibility Committee that no cause for conflict of interest specified in this Act exists relating to him.

(2) The Eligibility Committee shall verify the veracity of the declaration and, after appointment, whether a conflict of interest exists annually.

(3) If the person proposed as president or vice-president of the Authority misrepresented substantial data or facts in the declaration, the Eligibility Committee shall apply to the President of the State Audit Office for the termination of the legal relationship of the president or vice-president concerned.

(4) The declaration shall be retained for a period of five years after termination of the term of office of the president or vice-president of the Authority.

(5) In the event of a conflict of interest occurring in relation to the president or a vice-president of the Authority after his appointment, the president or vice-president concerned shall be obliged to notify the Eligibility Committee thereof within 15 days of its occurrence. The president and vice-presidents of the Authority shall be obliged to eliminate any conflict of interest occurring after their appointment within 30 days of its occurrence and shall notify the Eligibility Committee thereof.

(6) If a conflict of interest occurring in relation to the president or a vice-president of the Authority after his appointment is identified by the Eligibility Committee, the Eligibility Committee shall call upon the president or vice-president concerned to eliminate the conflict of interest within 30 days of its occurrence.

(7) If the president or vice-president of the Authority did not eliminate the conflict of interest within 30 days of its occurrence, or if the conflict of interest identified has existed for more than 30 days, the Eligibility Committee shall apply to the President of the State Audit Office for the termination of the legal relationship of the president or vice-president concerned.

17. Obligation of the president and vice-presidents to make a declaration of assets

Section 44 (1) The person proposed as president or vice-president of the Authority shall make a declaration of assets before his appointment.

(2) The president and vice-presidents of the Authority shall make a declaration of assets annually.

(3) The rules relating to the declaration of assets of the Members of the National Assembly shall apply accordingly to the declarations of assets referred to in paragraphs (1) and (2), with the derogations provided for in this Act.

(4) The declarations of assets of the persons proposed as president or vice-president of the Authority as well as those of the president and vice-presidents of the Authority shall be managed and retained by the Eligibility Committee until the date set out in paragraph (6).

(5) The Eligibility Committee shall verify the veracity of the declarations of assets of the persons proposed as president or vice-president of the Authority as well as the president and vice-presidents of the Authority annually, and shall prepare a report on the outcome. The report containing the verification outcome shall be retained for a period of five years.

(6) The Eligibility Committee shall publish the public, page-for-page copies of the declarations of assets of the persons proposed as president or vice-president of the Authority as well as the president and vice-presidents of the Authority on the website of the Authority without delay. The declaration of assets may be removed from the website five years after the termination of the legal relationship of the president or vice-president concerned.

(7) Should the Eligibility Committee find in the course of the verification referred to in paragraph (5) that the person proposed as president or vice-president of the Authority, or the president or vice-president of the Authority has misrepresented substantial data or facts in the declaration of assets, the Eligibility Committee shall apply to the President of the State Audit Office for the termination of the legal relationship of the president or vice-president concerned.

18. Rules governing the employment relationship of persons belonging to the personnel of the Authority

Section 45 (1) The president of the Authority shall determine

a) the personnel headcount necessary for the performance of the tasks of the Authority, and the system and categories of positions;

b) the amount of resources required for the performance of the tasks of the Authority.

(2) The vice-president designated in the organisational and operational regulations of the Authority shall be responsible for taking employer measures not specified in this Act relating to the public service relationship of the president of the Authority.

Section 46 (1) The power of the president of the Authority to decide on the principles of remuneration policy and the non-wage benefits of the Authority may not be delegated.

(2) The Authority and the public officials of the Authority shall agree in a public service employment contract on the remuneration of the public official, the benefits, the additional annual leave, the daily working time and the standard work arrangement.

(3) The Authority shall not fall within the scope of data provision as regards public administration personnel management.

(4) With the exception of the president and vice-presidents of the Authority, the public officials of the Authority shall make a declaration of assets in accordance with section 3 (1) of Act CLII of 2007 on certain obligations to make declaration of assets.

Section 47 (1) The public officials of the Authority shall keep confidential all secrets protected by the law, and in particular trade secrets, that became known to them in the course of performing their duties.

(2) The public officials of the Authority shall keep confidential as professional secret all data, facts and circumstances that became known to them in connection with the exercise of official authority that the Authority is not obliged to make available to the public pursuant to the provisions of an Act.

(3) The public officials of the Authority shall be prohibited from disclosing without authorisation and exploiting any secret protected by the law, and in particular trade secret and professional secret, that became known to them. This section shall be without prejudice to any statutory obligation of the Authority to provide data and information.

PART TWO

ANTI-CORRUPTION TASK FORCE

Chapter VI

FUNCTIONING OF THE ANTI-CORRUPTION TASK FORCE

19. Status of the Anti-Corruption Task Force

Section 48 (1) There shall be attached to the Authority an Anti-Corruption Task Force (hereinafter the “Task Force”). The Task Force shall be a collegiate body independent of the Authority in charge of preparing analyses, making proposals, delivering opinions and preparing decisions. The Task Force shall operate for an indefinite period of time. The Task Force shall not interfere with the activities of the Authority.

(2) The activities of the Task Force shall not prejudice the functions and powers of other organs. In particular, the Task Force shall not be mandated to establish individual responsibility or liability.

Section 49 Non-governmental actors active in the field of the fight against corruption shall be involved in the work of the Task Force, ensuring full, organised and effective participation for them.

20. Tasks of the Anti-Corruption Task Force

Section 50 (1) The tasks of the Task Force shall be the following:

a) examining the existing anti-corruption measures and elaborating proposals concerning the detection, investigation, prosecution and sanctioning of

aa) corrupt practices as defined by Article 4 (2) of Directive (EU) 2017/1371 of 5 July 2017 of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law;

ab) the offences under Chapter III of the United Nations Convention Against Corruption;

ac) the criminal offences set out in Chapter XXVII of Act C of 2012 on the Criminal Code, and other practices, in particular nepotism, favouritism, and revolving door between public and private sector;

b) putting forward proposals for measures aimed at improving corruption prevention and detection, including, in particular, measures regarding the effective use of all available corruption prevention and detection tools, and for measures aimed at improving the information flow between the administrative and control authorities of the state and the investigating authorities;

c) preparing, on the basis of the tasks set out in points *a)* and *b)* an annual report, distinct from the annual analytical integrity report by the Authority, analysing the risks and trends of corruption and corrupt practices, proposing effective countermeasures and best practices for the prevention, detection and sanctioning of corruption risks and corruption types, and assessing their effective implementation as well as how its previous proposals were followed up and implemented in relevant legislative and non-legislative initiatives and government programmes.

(2) The Task Force shall take into account also conflict of interest situations as defined in

a) Article 61 (1) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012; and

b) Article 24 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC,

considering also Commission Notice Guidance on the avoidance and management of conflicts of interest under the Financial Regulation (C/2021/2119) as well as relevant national legislation.

(3) In performing its tasks, the Task Force may take the public reports of the Authority into account, but shall not be bound by, or obliged to take into account, the public reports of the Authority. In preparing the annual analytical integrity report, the Authority may take the report of the Task Force into account, but shall not be bound by, or obliged to take into account, the report of the Task Force.

Section 51 (1) The Task Force shall adopt its annual report by 15 March of the year following the year in question.

(2) The Task Force shall send its annual report to the Government, and the Government shall publish it on its website.

Section 52 (1) The Government shall discuss the annual report of the Task Force and the proposals included in the report as a matter of priority within two months after it is sent to it.

(2) If the Government decides not to implement a proposal, it shall send a detailed reasoning for its decision to the chair of the Task Force within one month after the decision is made.

(3) The chair of the Task Force shall inform the Task Force of the measures taken on the basis of the annual report and the reasoning for those not taken. Such information shall be published on the website of the Government at the same place as the annual report of the Task Force, and on the website of the Authority.

Section 53 The Task Force members representing independent non-governmental actors active in the field of the fight against corruption shall be entitled to prepare a shadow report that shall be made publicly available on the website of the Task Force and the Authority at the same place as the annual report of the Task Force and, at the same time, it shall be sent to the Government.

21. Members and invitees of the Task Force

Section 54 (1) The Task Force shall have twenty-one members; the membership shall be composed of the following:

- a) the president of the Authority;
- b) ten members representing non-governmental actors; and
- c) ten members representing state organs.

(2) The members representing non-governmental actors participating in the work of the Task Force shall be invited by the chair of the Task Force following a decision by the Board of the Authority.

(3) The Task Force members representing state organs shall be the following:

- a)* a senior professional executive designated by the Minister responsible for justice;
- b)* a senior professional executive designated by the Minister responsible for state investments;
- c)* a senior professional executive designated by the Minister responsible for public finances;
- d)* a senior professional executive designated by the Minister responsible for crime prevention;
- e)* a senior professional executive designated by the Minister responsible for public administration quality policy and personnel policy;
- f)* a senior professional executive designated by the Minister responsible for the use of European Union funds;
- g)* a person designated by the director-general of the Constitution Protection Office;
- h)* a person designated by the national chief of Police;
- i)* a person designated by the director-general of the National Protective Service; and
- j)* a person designated by the president of the National Tax and Customs Administration.

(4) All members shall have the same rights and obligations related to the operation of the Task Force, including access to information and the right to intervene.

(5) Membership in the Task Force shall not entitle anyone to access the work of the Authority.

Section 55 (1) The chair of the Task Force shall invite the following to participate in the work of the Task Force as permanent invitees in a consultative and advisory capacity:

- a)* a person designated by the president of the State Audit Office;
- b)* a person designated by the president of the Hungarian Competition Authority;
- c)* a person designated by the president of the Public Procurement Authority;
- d)* a person designated by the president of the Supervisory Authority of Regulatory Affairs;
- e)* a person designated by the president of the National Office for the Judiciary; and
- f)* a person designated by the Prosecutor General.

(2) The permanent invitees shall have the same rights as members related to the operation of the Task Force as regards access to information and the right to intervene.

(3) The president of the Authority may invite other persons to participate in the meeting of the Task Force in an advisory capacity.

Section 56 (1) The members of the Task Force as well as the permanent and *ad hoc* invitees shall not receive any remuneration and reimbursement for their work in the Task Force.

(2) The members of the Task Force as well as the permanent and *ad hoc* invitees shall keep confidential all secrets protected by the law, and in particular trade secrets, that became known to them in connection with the performance of their duties.

22. Task Force members representing non-governmental actors

Section 57 (1) The members representing non-governmental actors shall be selected through an open, transparent, non-discriminatory application procedure on the basis of objective criteria related to expertise and merit.

(2) A person may be a member representing non-governmental actors only if that person is demonstrably independent of the government, authorities, political parties and business interests, has proven expertise and sufficiently long verifiable professional activity in one or more of the following fields:

- a) corruption prevention and fight against corruption;
- b) transparency, access to public information;
- c) public procurement procedures;
- d) protection of human rights and law enforcement related to the tasks of the Task Force.

(3) The list of candidate members representing non-governmental actors shall be established by the president of the Authority from among those submitting an application to a call for applications.

(4) The Eligibility Committee shall give a binding opinion to the Board of the Authority on the evaluation of the eligibility conditions for the candidate members and the selection criteria. In addition to assessing eligibility, and without prejudice to the nomination and appointment procedure, the Eligibility Committee may in its opinion contribute to an informed decision on the nomination of the members representing non-governmental actors in any way.

(5) The Board of the Authority shall select the members representing non-governmental actors from the list of candidate members considering the opinion of the Eligibility Committee.

(6) The members representing non-governmental actors shall perform their duties in person.

Section 58 (1) The term of office of the Task Force members representing non-governmental actors shall terminate

a) upon resignation;

b) upon death;

c) upon revocation of the invitation if the Board of the Authority, on a proposal from the chair of the Task Force, decides that the selection criteria are no longer met.

(2) The Task Force members representing non-governmental actors may resign from their office in the Task Force in writing at any time. The resignation shall not require reasoning. The resignation shall be communicated to the Board of the Authority.

23. Chair and vice-chair of the Task Force

Section 59 (1) The chair of the Task Force shall be the president of the Authority.

(2) The Task Force shall elect its vice-chair from among its members representing non-governmental actors by majority decision.

Section 60 (1) The chair of the Task Force shall represent the Task Force.

(2) If the chair of the Task Force is absent, the vice-chair shall take his place with full powers as regards the representation of the Task Force and the conduct of its meetings.

24. Meetings of the Task Force

Section 61 (1) The Task Force shall hold its meetings as appropriate, but at least twice a year. The chair shall draw up the meeting agenda and conduct the meeting.

(2) The Task Force shall have a quorum if more than half of its members are attending the meeting.

(3) The Task Force shall take its decisions by a simple majority of the votes cast, except in the case referred to in paragraph (4). The vote of the chair of the Task Force shall count as one vote cast by a member; in the event of a tie, the vote of the chair of the Task Force shall be decisive. Permanent and *ad hoc* invitees shall not have voting right.

(4) If the number of the members representing non-governmental actors among the members attending the meeting, not including the chair, is less than half of the members attending the meeting, the weight of the votes of the members representing non-governmental actors shall be determined so as to ensure that the total weight of the votes of the members representing non-governmental actors is half of all votes, not including the vote of the chair.

(5) The Task Force shall establish its rules of procedure on a proposal from its chair.

Section 62 The minutes of the meetings of the Task Force shall be published on the website of the Authority. The written contributions sent in advance, and the *ex post* observations made in writing by the members shall be attached to the minutes.

25. Secretariat of the Task Force

Section 63 (1) The Authority shall provide secretarial and administrative support for the activities of the Task Force.

(2) The public official allocated from the organisation of the Authority to perform the tasks referred to in paragraph (1) shall be independent of the Task Force and accountable to the Authority.

PART THREE

THE ELIGIBILITY COMMITTEE

Chapter VII

FUNCTIONING OF THE ELIGIBILITY COMMITTEE

26. Tasks of the Eligibility Committee

Section 64 (1) The Eligibility Committee shall be a body independent of the Authority and the Task Force in charge of delivering opinions. The Eligibility Committee shall be composed of three independent members.

(2) The Eligibility Committee shall be convened by the head of the audit body for European funds.

(3) The Eligibility Committee shall take its decisions by majority decision making.

(4) The Eligibility Committee shall establish its rules of procedure.

Section 65 The Eligibility Committee shall carry out the tasks set out in this Act relating to the Authority and the Task Force.

27. Members of the Eligibility Committee

Section 66 (1) The members of the Eligibility Committee shall be appointed by the head of the audit body for European funds for a period of five years following an international open and public application procedure. A member of the Eligibility Committee shall not be reappointed. The head of the audit body for European funds shall not be instructed or influenced in any way as regards the appointment of the members of the Eligibility Committee.

(2) The members of the Eligibility Committee shall be completely independent in the performance of their duties and shall neither seek nor take instructions from any institution, organ, office, organisation or person.

(3) A person may be appointed as member of the Eligibility Committee only if that person

a) has not held a post or mandate referred to in section 42 (1) *a)* or *b)* within 5 years prior to the nomination;

b) has substantial present or past experience obtained working at organisations which are internationally recognised in the field of public procurement or the fight against corruption, and sufficiently long verifiable and relevant practice at such organisations; and

c) has a high level of integrity.

(3) The members of the Eligibility Committee shall be entitled to *per diem* at a rate under EU technical assistance as well as the reimbursement of their costs arising in connection with their membership by the audit body for European funds.

28. Obligation of the members of the Eligibility Committee to make a declaration of assets and rules related to conflict of interest

Section 67 (1) The members of the Eligibility Committee shall make a declaration of assets before and annually after their appointment. The rules relating to the declaration of assets of the Members of the National Assembly shall apply accordingly to the declaration of assets, with the derogations provided for in this Act.

(2) The declarations of assets of the members of the Eligibility Committee shall be managed and retained by the head of the audit body for European funds until the date set out in paragraph (4).

(3) The head of the audit body for European funds shall be entitled to conduct a procedure related to the declaration of assets of a member of the Eligibility Committee.

(4) The head of the audit body for European funds shall publish the public, page-for-page copies of the declarations of assets of the members of the Eligibility Committee on the website of the Authority without delay. The declaration of assets may be removed from the website five years after the termination of the term of office of the member concerned of the Eligibility Committee.

(5) The members of the Eligibility Committee shall make a declaration of conflict of interest in relation to the performance of their duties before appointment. The declaration of conflict of interest shall be managed and retained by the head of the audit body for European funds for a period of five years after the termination of the term of office of the member concerned of the Eligibility Committee.

(6) The conflict of interests rules set out in Article 61 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 shall apply to the members of the Eligibility Committee who take part in a decision making referred to in section 37 (3) for a period of five years after the the decision is made.

29. Secretariat of the Eligibility Committee

Section 68 The audit body for European funds shall provide secretarial and administrative support for the activities of the Eligibility Committee.

PART FOUR

FINAL PROVISIONS

CHAPTER VIII

ENTRY INTO FORCE AND TRANSITIONAL PROVISIONS

30. Entry into force

Section 69 (1) With the exceptions specified in paragraphs (2) to (4), this Act shall enter into force on the day following its promulgation.

(2) Sections 83, 88 and 91, and section 92 *c*) shall enter into force on 30 November 2022.

(3) Section 5 (6) shall enter into force on 31 March 2023.

(4) Sections 85 and 86 and section 92 *b*) shall enter into force on the day following the day of publication in the official gazette *Magyar Közlöny* of a government decision confirming the complete availability of the data in the register under Chapter IV.

(5) After it becoming known, the calendar day of entry into force of sections 85 and 86 and section 92 *b*) shall be established by the Minister of Justice in a specific decision published in the official gazette *Magyar Közlöny* without delay.

31. Transitional provisions

Section 70 (1) The president and vice-presidents of the Authority shall be appointed by 4 November 2022.

(2) The Board of the Authority shall hold its first meeting by not later than 19 November 2022, and shall draw up minutes thereof.

(3) The Authority shall start full operation on 19 November 2022.

Section 71 (1) The audit body for European funds shall provide support for the provision of secretarial and administrative services in relation to the establishment of the Authority and provide the necessary infrastructure for a period of 6 months from the date of entry into force of this Act.

(2) The audit body for European funds shall perform the economic organisational tasks of the Authority in accordance with the rules governing the management, accounting, data provision and operation of public finances for a period of 6 months from the date of entry into force of this Act.

(3) The detailed rules for the performance of economic organisational tasks, the management tasks and the related responsibilities shall be laid down in a work-sharing agreement.

(4) The work-sharing agreement referred to in paragraph (3) shall be concluded by the president of the Authority and the head of the audit body for European funds.

(5) From the entry into force of this Act until the start of the actual operation of the Authority, the audit body for European funds shall contribute to the performance of tasks facilitating the establishment and operation of the Authority, and in addition to the requirements specified in paragraph (1), it shall provide support for the performance of the duties of the president and vice-presidents of the Authority specified in this Act.

(6) In connection with the cooperation and provision of support under paragraphs (1) and (5), the Authority and the audit body for European funds shall settle accounts with each other in the manner and within the time limit specified in the work-sharing agreement referred to in paragraph (3).

Section 72 The Eligibility Committee shall, in close cooperation and consultation with international organisations, review the functioning of the Authority and the Board of the Authority two years after the appointment of the members of the Board of the Authority.

Section 73 The first integrity risk assessment shall be carried out within four months of the start of operation of the Authority in cooperation with international organisations having internationally recognised methodology, and based on the indicators of the IV Pillar of the Methodology to Assess Procurement Systems (MAPS), Accountability, Integrity and Transparency of the Public Procurement System.

Section 74 (1) In addition to the content set out in section 11, the first analytical integrity report

a) shall include an assessment of whether existing conflict of interest regulations are in line with Commission Notice Guidance on the avoidance and management of conflicts of interest under the Financial Regulation (C/2021/2119) and whether improvements are needed;

b) shall, taking into account the integrity risk assessment practice referred to in sections 9 and 10, define specific indicators for fraud within the meaning of Article 3 of Directive (EU) 2017/1371, corruption within the meaning of Article 4 (2) of Directive (EU) 2017/1371 and conflict of interest within the meaning of Article 61 (1) (a) of Regulation (EU, Euratom) 2018/1046 and Article 24 of Directive 2014/24/EU, adjusted in accordance with Commission Guidance on the avoidance and management of conflicts of interest under the Financial Regulation (C/2021/2119);

c) shall survey the regulatory framework and operation of the Hungarian system of declarations of assets, including its scope and control process.

(2) The Authority shall prepare the first analytical integrity report by 30 June 2023.

Section 75 The Authority shall prepare an *ad hoc* report by 31 December 2023 in which it surveys the regulatory framework and operation of the Hungarian system of declarations of assets, including its scope and control process.

Section 76 (1) The register shall start to operate after the conditions for direct data link to the criminal records system, the company information system, the private entrepreneur register and the beneficial owner register as specified in this Act are ensured.

(2) When the register starts operation, the Authority shall register economic operators in respect of which the person committing the criminal offence on which the ground for exclusion is based is not yet relieved from the adverse consequences of having a criminal record.

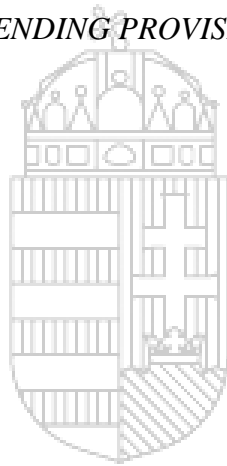
Section 77 (1) The Task Force shall be established by 1 December 2022. The Task Force shall hold its first meeting by not later than 15 December 2022.

(2) The Task Force shall adopt and send to the Government its first report for 2022 by 15 March 2023.

Chapter IX

AMENDING PROVISIONS

Sections 78 to 96



MINISTRY OF JUSTICE
HUNGARY