Corruption Risks in Hungary

Part One

National Integrity System Country Study

Hungary 2007

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Abbreviations

ABPLWC	Advisory Body for the Public Life Without Corruption
ACB	Anti-corruption Co-ordination Body
CAO	Chief Administration Officer
CC	Act IV of 1978 (Criminal Code)
CCP	Act XIX of 1998 (Act on Criminal Procedure)
CEENERGI	Central and Eastern European Network for Responsible Giving
CICP	United Nations Centre for International Crime Prevention
CPI	Corruption Perception Index
CSO	Civil society organisation
CSR	Corporate Social Responsibility
DSS	Digital Switchover Strategy
EACN	European Anti-Corruption Network
EMLA	Environmental Management and Law Association
EU	European Union
ETI	European Transparency Initiative
OLAF	European Anti-Fraud Office
GMC	Multidisciplinary Group on Corruption
GCO	Government Control Office
GRECO	Group of States Against Corruption
HCA	Hungarian Competition Authority
HDF	Hungarian Donors' Forum
HFSA	Hungarian Financial Supervisory Authority
II	International Institution
IMF	International Monetary Fund
MBO	Members benefit organisation
MJLE	Ministry of Justice and Law Enforcement
MP	Member of the Parliament
NAMS	National Audio Visual Media Strategy
NJC	National Judicial Council
NEC	National Election Committee
NIO	National Investigation Office
NIS	National Integrity System
NRTB	National Radio and Television Board
PBO	Public benefit organisation
PM	Prime Minister
PPA	Public Procurement Act (2003)
PPAC	Public Procurement Arbitration Committee
PPC	Public Procurement Council
SAO	State Audit Office
SECI	Southeast European Co-operative Initiative

UNICRI	United Nations Interregional Crime & Justice Research Institute
UNODC	United Nations Office on Drugs and Crime
TI	Transparency International

About the NIS

What is the National Integrity System?

The National Integrity System (NIS) consists of key institutions, specific sectors (the 'pillars') that contribute to integrity, transparency and accountability in a given society. When it functions properly, the NIS combats corruption as part of the larger struggle against the abuse of power, malfeasance and misappropriation in all its forms. Strengthening the NIS involves promoting good governance in all aspects of a particular society.

The NIS concept has been developed and promoted by Transparency International (TI) as part of its holistic approach to countering corruption. While there is no blueprint for an effective system to prevent corruption, there is however a growing international consensus about the salient features of anti-corruption/pro-integrity systems that work best. Country studies are based on qualitative assessments of the institutions involved in the anti-corruption system.

Why produce NIS country studies?

The aim of each study is to assess the National Integrity System in theory (laws and regulatory provisions) and in practice (the extent to which these work). Via these studies, Transparency International aims to provide an overview of the National Integrity Systems in countries in all regions of the world. These studies provide both benchmarks for measuring further developments in these countries and also a basis for cross-country comparison. In terms of establishing benchmarks, the studies offer a starting point for identifying the areas in need of priority action. They also constitute the basis on which the relevant parties can assess the initiatives involved in the fight against corruption. The NIS country studies highlight, for example, the pillars that have proved most successful and why, whether the pillars are mutually supportive and the factors supporting or hindering their effectiveness. The country studies also assess the areas that must be addressed to improve the system and the factors required to support the overall development of the NIS.

Regarding cross-country comparisons, the country studies create a strong, empirical basis that contributes to our understanding of how countries with strong and weak performance records are governed. Within regions or among several countries sharing a similar political, economic and social structure, the results of the study can create a type of peer pressure for implementing reforms or create opportunities for learning from countries at comparable stages of development.

The country studies are an important measuring tool for Transparency International. They complement TI's indices and surveys such as the Corruption Perceptions Index (CPI), the *Indice de corruption des pays exportateurs (ICPE)* [index of corruption in exporting countries] and the Global Corruption Barometer, or the national surveys that explore the specific practices and constraints within each country, to produce empirical, qualitative results on the rules and practices governing the integrity systems. As of August 2007, more than 70 of these studies have been carried out.

TI believes it is necessary to understand the regulatory provisions for and the capacity of the NIS pillars, as well as their interaction and practices, in order to be in a position to diagnose the risks of corruption and to draw up strategies to counter these risks. The NIS country studies are a unique TI product inasmuch as they reflect the systemic approach adopted by TI to counter corruption and the independence of analysis the world's leading anti-corruption NGO can offer.

Methodology of NIS studies

The NIS country studies provide a qualitative assessment of a country's integrity system. These studies are based on both objective and subjective information sources, which differ in quantity depending on the country being assessed. The studies therefore require both desk and field research.

There is at least one focus group convened for each country study. Focus groups participants include governance and anti-corruption experts from the public and private sectors, representatives from the liberal professions (for example lawyers, accountants and engineers), from among moneylenders if need be, the media and civil society. The aim of the focus group is to bring together a wide range of actors to assess the NIS and discuss the first draft of the country study, which is then revised on the basis of the conclusions of the focus group meeting.

Each country study is revised by an independent external expert.

The Hungarian NIS study

NIS country studies are usually composed by one single author, however we could not follow this methodology. In Hungary research activities on corruption concentrate on certain segments and lack cross-sector approach, therefore each chapter was written by experts of that certain area.

In Hungary private sector plays essential role and has key responsibility in countering corruption. Since corruption in the business sector is a less researched field and anti-corruption activities still concentrate exclusively on the public sector the business environment needs special analysis. TI Hungary dedicates a separate research to reveal corruption mechanisms in the private sector; it will be completed in 2008. The current study is therefore titled Part One of the National Integrity System country analysis; it will be completed by the findings of the research about the business sector (Part Two) in April 2008.

The research provides an analysis of the functioning and interaction of the 'pillars' of the NIS therefore does not necessarily cover in details all areas which are perceived as corrupt in a given country. In the case of Hungary the health care system – which is perceived as one of the most corrupt fields – could not be covered by the scope of this analysis due to methodological constraints.

Transparency International Hungary initiated the analysis of the Hungarian NIS in April 2007 in order to find the roots and causes of corruption and provide recommendations on how to tackle them. We truly hope that the diagnosis of the strengths and weaknesses of the integrity system will contribute to the implementation of adequate anti-corruption reform efforts in Hungary.

Executive Summary

Hungary is a Central European country with a population of approximately 10 million. After decades of a Soviet-style political system, it became a Western-style democracy in 1990, joined NATO in 1999, and has been a member state of the European Union since 2004.

A shortage or faulty allocation of resources and over-bureaucratisation of the legal and administrative system have remained structural causes of corruption, notably exacerbated by changes associated with economic, political and social transition.

Hungarian anti-corruption programmes have increasingly been based on the recognition that a comprehensive arsenal of legislative and non-legislative measures needs to be developed including not only criminalisation of a broader range of behaviours, but also e.g. stricter regulation on conflicts of interest and the organisation of information campaigns. The successful implementation of these programmes however, requires a strong political will on the part of government, and a solid consensus among political parties accompanied by continuous support from civil society.

Although the Government is politically responsible to the Parliament, the executive has become the most powerful branch of the constitutional system. To put effective limits on the dynamic growth of the Government, internal control mechanisms (disclosure of assets, conflicts of interest) need to be strengthened, and a comprehensive code of conduct for civil servants needs to be adopted. The external control mechanisms provided by organisations independent of the Government and political parties (the State Audit Office [SAO], the proposed Budgetary Office) also need to be improved.

Hungary's multiparty system lacks a proper and comprehensive set of financial regulations. Spending on electoral campaigns has been soaring, and for several years it has been an open secret that party expenditure exceeds the outdated limit. The State Audit Office only examines invoices submitted by the political parties, and does not assess real expenditure by using other sources of information. Financial accounts in their present form do not give a reliable picture of the parties' financial management, and there are no sanctions for delay in submission or for inclusion of false data. Comprehensive reform in this area, based on a political consensus of government and opposition parties is strongly advisable.

The recent changes to the law on the composition of electoral commissions could open the way for certain political parties (with a majority in Parliament or local government assemblies) to exercise a covert influence on the work of such commissions. Nonetheless, mutual supervision by delegates, the role of the media, and in the last resort legal remedies in the ordinary courts or the Constitutional Court ensure the fairness of parliamentary or local elections.

The State Audit Office is a professional body of the Parliament set up to control the legality, integrity and transparency of the financial affairs. The integrity and efficiency of the SAO could be improved by modification of defective regulations on conflicts of interest, limitation of the practice of advance notifications and introduction of post-employment restrictions. Governmental agencies should be urged to accept the recommendations of the SAO.

The Judiciary gained structural independence from the government and the parliamentary majority in 1997, but it is still vulnerable to pressure via the manipulation of its budget. The National Judicial Council (with a majority of judges) is responsible for the administration of the judicial system, but overlaps of personnel could weaken the integrity of its internal oversight mechanisms. Independence rather than transparency and accountability were the main focus of the recent reforms of the judiciary.

Poor career prospects and low admission requirements together with a lack of specialised expertise have been structural causes of corruption in law enforcement agencies since the transition. The weakness of technical and professional resources hampers the investigation and prosecution of high-level corruption cases.

The administrative regulation of public procurement cannot in itself prevent corrupt practices, since not only a wide range of discretionary powers and imprecise legal definitions, but even the actual abuse of strict formal requirements can result in systemic corruption. Strengthening the rules on civil law remedies, education, consciousness raising and stronger civil participation could reduce the unnecessarily high expenditures in public procurement proceedings.

In Hungary the institution of ombudsman is not a sector with a priority function in the fight against corruption, but the tasks of the ombudsman on data protection and freedom of information are of

vital importance for transparency of governance. The soft powers of the ombudsmen would have a greater impact if the organisations the ombudsmen address would be more open to, and ready to accept professional criticism, and if the ombudsmen's findings would be more effectively communicated towards the wider public.

Tasks and powers in the fight against corruption are distributed between the executive, legislative committees and law enforcement agencies. No specialised agency has been created solely for the investigation or prosecution of corruption, and bodies with only consultative powers have been established to co-ordinate and facilitate strategic planning.

In Hungary the situation of the media can be characterised as one of strong foreign ownership, a serious political press that is losing ground in the face of the growing circulation of tabloids, more commercial radio and television channels, a weak public media, a very low market share, and a deep divisions in the journalist profession. The legal basis for free and responsible journalism exists, and legislation in this sector is progressive, but the implementation of laws is imperfect, the licensing procedures are not transparent, political battles overflow into the media and many media outlets are openly biased towards one or the other political camp.

Recent legislative changes have considerably improved the position of the civil sector, especially with regard to accessibility of information of public interest, but only rarely are its organisations invited to be involved in the decision-making process of government organs, and then only on an arbitrary basis.

A very fragmented local governmental system has been established in Hungary as a reaction to the earlier forced amalgamation of localities under soviet-type local government authorities (In a country of ten million people there are 3,187 local government authorities.) Because of the heavy fiscal pressure on these bodies, weak regulation on conflict of interest and no satisfactory local control and auditing, there is a high risk of corruption in contracting out practices and utilisation of community assets.

Hungary is a party to conventions adopted against corruption, and participates in the work of every relevant international institution. International monitoring bodies, however, often reveal discrepancies of a minor nature between treaty-based obligations and internal legislation.

Country Profile

Hungary is a landlocked country in Central Europe. With 92,103 square kilometres of territory, it is the sixteenth largest European country. It has a population of approximately 10 million (slowly decreasing) living predominantly in urban centres. 90 per cent of the country's population is Hungarian; the biggest ethnic minority group is the Roma (approx. 4-6 per cent).[1]

After decades of a Soviet-style political system, Hungary became a Western-style democracy in 1989-1990. Following the national round-table negotiations between representatives of the ruling Hungarian Socialist Workers Party, the newly founded opposition parties, and different social groups, the Parliament passed reforms that almost entirely replaced the old constitution in October of 1989 and provided for free election in a multiparty system with protection of human rights and the separation of powers.[2] In the new institutional structure of the Constitution, the Parliament is the supreme legislative body[3] and elects the Prime Minister, who forms the Government entrusted with preparation and implementation of acts of Parliament.[4] The President of the Republic, as an independent constitutional institution,[5] represents the unity of the nation.[6] The most important power vested in the Constitutional Court is its power to annul any laws that it finds unconstitutional.[7] Ombudsmen are responsible for investigating infringements of constitutional rights.[8] The State Audit Office audits and oversees public finances. The judiciary, as an independent branch of power, consists of local, county (and from 2002 regional) courts and the Supreme Court of Justice.[9]

After the first free parliamentary election (May 1990), the Hungarian Democratic Forum (MDF), a conservative party founded in 1987, formed a centre-right coalition government under PM József Antall (who died in December 1993 in office and was followed by Péter Boros, also an MDF politician). In the May 1994 elections the reform wing of the former ruling party, re-founded as the Hungarian Socialist Party (MSZP), won, but without an absolute majority, and formed a coalition with the liberal Alliance of Free Democrats (SZDSZ) under the prime-ministership of Gyula Horn. After the election in May 1998, centre-right parties led by the Federation of Young Democrats (renamed Fidesz-Hungarian Civic Party in 1995) secured a majority of parliamentary seats (PM: Viktor Orbán). In April 2002, the country voted to return the MSZP-SZDSZ coalition to power. This second socialist-liberal government was led by Prime Minister Peter Medgyessy, who resigned in August 2004 and was followed by Ferenc Gyurcsány, also from the Socialist Party (re-elected for another four-year term in the parliamentary election of April 2006).

Recently, the private sector has been producing more than 80 per cent of GDP,[10] and foreign owners control two-thirds of industry.[11] At the start of the third millennium, services accounted for almost two-thirds of GDP and of the workforce.[12] After the transition new trading partners were found, and since the 1990s the vast majority of the country's foreign trade is conducted with EU and OECD countries. In 1995 Hungary's currency, the forint (HUF) became convertible for all transactions.

Hungary's media landscape is characterised by a mix of market principles and different forms of state intervention.[13] The wide range of private media sources prevents any serious threat to freedom of the press and information, but weaknesses in the regulatory framework and financing do not provide adequate guarantees against political interference in the sphere of public (state owned) broadcasting.[14]

Hungary joined NATO in 1999, and has been a member the European Union since 1 May 2004.

Corruption Profile

Roots and Causes

The political and economic transition in Hungary has been accompanied by widespread corruption. Shortage or bad allocation of resources, an over-bureaucratised legal system and public administration[15] and networks based on mutual favours[16] have remained structural causes of corruption. Society has undergone significant changes that have undermined generally accepted norms of behaviour (anomie) and strengthened tendencies towards corruption.[17] In some sectors the change from planned economy to a liberal market system has altered the underlying structure of corrupt behaviour. In the shortage economy of socialism, the direction of corruption was from buyer to seller as buyers sought to obtain goods and services in short supply (quality food and imported goods). After the change of regime, the direction of corruption in several sectors (business, public contracting etc.) is from seller (entrepreneur) to buyer (client).[18]

Empirical Data

The Unified Criminal Statistics of the Police and Prosecution Service contain data on corruption offences (namely bribery and trading in influence) defined in Chapter XV Title VII and VIII of the Hungarian Criminal Code (HCC). During the last 15 years the number of detected corruption offences has fluctuated between 400 and 1000 per year, with sudden 'jumps' in the figures (e.g. 344 in 1991 and 782 in 1992, 955 in 2005 and 480 in 2006.).[19]

These data, however, are misleading as a basis for any far-reaching or unambiguous conclusions on the actual situation of corruption in Hungary, and should be approached with the following factors in mind: a) Some categories of offences (e.g. breach of trust[20] or official duties[21]) committed as a result of corruption are not registered as such in the system. b) Given the very high latency of corruption,[22] figures on bribery and trading in influence (e.g. 480 in 2006) reflect only a fraction of the actual number of such offences.[23] c) The sudden 'jumps' of the figures (e.g. 955 in 2005 and 480 in 2006) are usual associated with small statistical sets,[24] and do not reflect general trends in the incidence of corruption. Just one case involving multiple offences (e.g. a serial bribery of custom and excise guards) can influence the statistical data disproportionately.[25] d) Yearly figures reflect only the number of corruption offences on which data is provided in the given year (the year in which e.g. criminal charges were brought).[26] Altogether, these limitations of the available data suggest that cases of corruption that have come to light represent only a small proportion of corrupt practices actually taking place, the majority of which remain undetected.

In the Transparency International (TI) Corruption Perceptions Index (CPI) Hungary's ranking and scores have remained almost unchanged in the last six years (see Table 1).

Table 1: TI Corruption Perceptions Index (CPI) Hungary[27]

	Score*	Confidence Range	Ranking	Number of countries on the list
2001	5,3	4.0-6.2	31	91
2002	4.9	4.0-5.6	33	102
2003	4.8	4.0-5.6	40	133
2004	4.8	4.6-5.0	42	146
2005	5.0	4.7-5.2	40	159
2006	5.2	5.0-5.4	41	163
2007	5.3	4.9-5.5	39	180

* on a scale from one to ten, a country completely free from corruption could get 10 points

According to the 2006 Gallup Corruption Index (GCI) Hungary is ranked 78th (with a score of 84 on a scale of 1 to 100).[28] Hungary is perceived as less corrupt than other Central and East European transition countries covered by the surveys,[29] except Estonia, Slovenia and the Czech Republic.[30] According to the Business Environment and Enterprise Performance Survey (BEEPS) conducted by the World Bank, 10 per cent of firms say that unofficial payments are frequent (half of the figure of 2002), and 25 per cent of firms indicated corruption as a problem when doing business (20 per cent in 2002).[31]

Main Areas of Corruption

The most common forms of corrupt practice in Hungary are of an administrative nature or stem from the symbiosis of political and economic interests.

Public officials, such as police or customs officers are often reported and caught on fraud charges. In the public health-care system a number of state-employed doctors use public hospital equipment and facilities for private profit. 77 per cent of survey respondents thought it was 'typical' for patients to give a gratitude payment or tip to hospital doctors[32] for services to which they are entitled, and in most cases this practice is not viewed as unlawful either by patients or doctors themselves. The public associates policemen (especially in relation to traffic control, policing tax fraud and drugs[33]) and tax, custom and excise administrators with corrupt behaviour. 39 per cent of respondents consider it normal practice to pay a bribe to avoid a fine for traffic offences,[34] and 28 per cent think it 'typical' to pay extra for importing or exporting goods.[35] It is common to pay for speedy registration at the land registry[36] or for faster service from licensing authorities especially in traffic administration.[37]

Parties, politicians, and mayors have also been reported for illegal and corrupt deals. Various studies have pointed out evidence highly suggestive of illegal campaign and political party funding.[38] In return of funding, parties when elected may repay 'donors' through favourable government policies and contracts.[39] Irregularities and non-transparent practices in privatisation, concessions, and public procurement tenders often come to light[40] and there are concerns that public funds can end up with political parties when businesses close to the parties win tenders and contracts.

The methodology employed in this report (see About the NIS) means that the fields analysed in the NIS study are not necessarily the ones that are perceived as most corrupt by the general public.

Anti-corruption Activities

The various government-initiated anti-corruption programmes in Hungary are partially the result of international pressure. The most influential source of pressure is the European Union (EU). While seeking EU membership, Hungarian governments participated in several anti-corruption actions initiated by the EU.

In 1992 a modern Law on the Protection of Personal Data and Publication of Data of Public Interest[41] was passed, the first in the post-communist region. This was followed in 2001 by the adoption of a comprehensive Governmental Strategy Against Corruption.[42] It included a wide range of proposals including a wide range of legislative instruments mainly concerned with conflicts of interest, property declarations, money-laundering, terrorism, and public procurement.[43] Many of these were embodied in legislation and partially implemented.[44] The strategy, however, took the 'traditional approach' to combating administrative corruption by focusing primarily on punitive measures instead of prevention.[45] The largely formalistic solution of increasing maximum sentences[46] was combined with provision of immunity for bribers or bribed who revealed the case to the authorities.[47] The strategy rather overestimated the power of legal regulations,[48] but also involved non-legislative measures including the introduction of ethics codes for public administration[49] (implemented only by some agencies[50]).

Anti-corruption activities continued in 2002 with the establishment of the State Secretariat of Public Finance, designed to monitor public procurement procedures and ensure transparency in the handling of public finances. In 2003 the Parliament unanimously adopted the Glass Pockets Act to curb corruption by reinforcing guarantees of honest management of public expenditure and public property.[51] The initiative was in general positive but the subsequent implementation of the Act has been patchy. It brought several new legal provisions. The introduction of the concept of 'data of public interest' made available information that would allow the State Audit Office to trace and check public expenditure even in the private sphere, reducing the scope of the business confidentiality exceptions previously used to block investigation.[52] The programme also enlarged the category of individuals required to declare their personal assets. The regulations were amended to restrict the definition of business secrets in the case of private companies involved in the public contracting system,[53] made a wide range of data accessible on the Internet[54] and modernised the public finance information system.[55] In 2003, a short-lived anti-corruption Ethics Council of the Republic was set up by the prime minister to propose anti-corruption legislation and a code of conduct for the civil service. A year later the State Secretariat of Public Finances and the Ethics Council were disbanded.

In 2005 a new Law on Freedom of Electronic Information was introduced, requiring public offices to make information of public relevance freely available on-line, but it has been implemented only partially. An amendment to the Law on Public Procurement banned local authorities from entering into contractual relations without prior open tender.[56] Even though a Law on Lobbying was enacted in 2006 it has failed to make a significant contribution to the transparency of lobby activities, being too restrictive in scope[57] and in any case only partly implemented.

In 2007 the Government initiated a new approach to combating corruption by requesting the Minister of Justice to draw up a long-term 'strategic document', and a short-term 'programme of action'.[58] These documents are due to be formulated in detail by the Anti-corruption Co-ordination Body (ACB) established in August of 2007.[59] In view of the involvement of non-governmental public organisations and representatives of civil society in the work of the body (including TI Hungary), the new anti-corruption programme is expected to be an important step towards a widely accepted national strategy against corruption. The Anti-corruption Co-ordination Body is scheduled to produce an Anti-corruption Strategy by the end of 2007, and the government plans to make a decision based on its strategy by February 2008. On the basis of our experience so far, we reserve judgement on the effectiveness of the work of this organ. We must also mention the crucial role of non-government organisations in the fight against corruption.

Apart from the EU, multilateral donors, international institutions and NGOs have also played a part in forming the country's anti-corruption profile. These international institutions have promoted various anti-corruption initiatives demanding legal reforms aimed at transparency, accountability and the development of democratic institutions since the mid-nineties. They have established incentives to combat corruption and have targeted corruption either indirectly as part of attempts to ensure the effectiveness of their programmes, or directly as part of their main mission. Their

anti-corruption work ranges from providing technical or financial assistance to supporting the development of strategies and law.

Summarising the anti-corruption activities in Hungary up to the present, we can conclude that most of the efforts have been ad hoc measures responding to international requirements (EU, GRECO) or led by political interests. Most have been window-dressing actions which avoid tackling key issues. The absence of a comprehensive strategic approach that would guarantee steps going beyond the lifetime of any one government highlights the need for the real political will to combat corruption.

The National Integrity System

Executive

Role(s) of institution/sector as pillar of NIS

The Hungarian constitutional system is based on the principle of the separation of powers.[60] The rules of the operation of the executive and the system of checks and balances are laid down in Act XX of 1949 on the Constitution of the Republic of Hungary (hereinafter referred to as the Constitution). While the powers have well formulated limits, in practice the executive is the strongest and the most independent branch.[61] Legislation may be initiated by the executive, but the authority to pass an act is vested in the Parliament.[62] Certain decisions are the prerogative of the President of the Republic, specifically the grant of individual pardons, the conferment of titles, orders and awards, the appointment and dismissal of state secretaries, and generals of the armed forces, and decisions on citizenship cases. Individual executive decisions are under judicial control and review. In addition, the Hungarian political system provides for a high degree of local autonomy, and the executive is not entitled to use decrees to impose obligations on local government.

The Prime Minister is elected by majority vote of the members of Parliament, following recommendation by the President of the Republic. The position of the Prime Minister is particularly strong as a result of the 'constructive nature' of the regulations on vote of confidence. According to the Constitution a vote of no confidence in the Prime Minister may only be initiated by a minimum of 1/5 of the MPs and a new candidate must be named at the same time. This restriction was originally adopted to provide stability in situations where it was considered too easy for governments to be brought down by irresponsible votes of no confidence; hence the requirement that initiators of no-confidence votes must offer a specific alternative.[63] Ministers are not elected: if a candidate meets the requirements established by law, the President of the Republic simply appoints him/her on the recommendation of the prime minister, although the President may refuse to do so if he/she deems the person concerned to be a serious threat or risk to the democratic operation of the state.[64] Nominees for ministerial posts appear before the relevant Parliamentary Committee beforehand. Any Hungarian citizen who has no criminal record and has the right to vote in general elections may be elected Prime Minister or appointed minister or secretary of state (in the sense of deputy minister). For more than a decade, therefore, there have been no professional criteria for high-ranking governmental positions except for the state secretaries. Act LVII of 2006 on Central Administration and the Legal Status of Members of the Government and State Secretaries (hereinafter referred to as the Public Administration Act) created the position of state secretary specialised in and responsible for a prescribed area of tasks as a professional civil servant, while the ministers and their secretaries of state in the sense of deputy ministers remain political elements in the governance. It is established practice that the appointments of state secretaries end when government terms of office end, often leaving the central administration completely 'beheaded'.[65]

Every executive decision has to include an explanation of the grounds for the decision, since it is potentially open to legal challenge for remedy.[66] Lack of thorough explanation can be grounds for nullification, and so administrative bodies and agencies do not risk failure to comply. Government and ministerial decrees or resolutions, however, are not required to set out the reasoning behind them. Time limits are fixed according to the character of the administrative matters concerned, and the relevant laws provide for special legal mechanisms to compel administrative bodies to issue decisions, especially in the cases of delay known as the 'silence of administration'.[67] In general, the realisation of the aims of the executive can be monitored in terms of rationale with reference to the governmental programme containing the legislative targets for five years.[68] In addition, by the terms of Act XC of 2005 on Freedom of Electronic Information (hereinafter referred as to the Electronic Information Act) governmental initiatives and measures must be publicised on the homepages of the Ministries and other public administrative bodies.

Ministers traditionally used to have wide-ranging powers in regard of staffing. A recent amendment of the Civil Servants Act has narrowed this wide discretion by introducing open and public competition to the recruitment system. However, there is an exception to the general rule allowing the appointment of civil servants working in the organisation at least for a year to senior officials.

In addition, the future employers have still been provided with strong competences when it comes to the concrete and personal choice between applicants. Consequently, the system, in general, has become more objective, though there are elements and gaps that allow political influence in decisions taken on staffing.[69] In the case of state secretaries, the Prime Minister has to confirm the ministerial recommendation. The promotion of civil servants is based on legally stipulated criteria of service time and education, although a recent – and much criticised – government initiative means that the hitherto relatively predictable remuneration system is to be redesigned to build performance evaluation elements into salaries.[70] Government Decree no. 301/2006 has already been adopted to regulate the performance evaluation and remuneration of public officials. Civil servants whose work performance is outstanding may now receive higher rewards while poor performance may result in pay reduction. According to the government, performance evaluation is essential to ensure the advancement of employees who provide continuous excellent work, as in the private sector. The options for the firing of civil servants are rather limited, since Act XXIII of 1992 on the Legal Status of Civil Servants (hereinafter referred as to Civil Servants Act) strictly defines the circumstances in which a civil servant may be dismissed.

Resources/structure

According to the current government's programme, *'A New Hungary – Freedom and Solidarity 2006-2010'*[71], one of the executive's most important targets is to create a modern administration by cutting back the enormous government apparatus (especially ministries and regional agencies) and the excessive number of high-ranking officials. At the moment there are twelve ministries and two ministers without portfolio, one responsible for civilian intelligence services and one responsible for the co-ordination of public administration.[72] The aim of the government structural reforms introduced last year has been to reduce public expenditure on the central administration and to increase the organisational flexibility as well as the budgetary efficiency of the executive. Yet as critics have pointed out, the reforms have resulted in the over-centralisation of the political power vested in organisations and staff under the direct control of the prime minister.[73] This tendency is evident in the case of several public organs of crucial importance. For example, the newly re-established National Development Agency responsible for the distribution of EU funds, used to have a minister at the top of its hierarchical structure, but has now lost its direct link to parliament by the appointment of a government commissioner as its president.[74] The Public Administration Act provides an exhaustive list of the main executive bodies (excluding only the central governmental agencies because these are so numerous).[75]

Another major step designed to improve the functioning of public administration has been Act CIX of 2006 on Government Organisational Freedom, which empowers the Government to restructure public administration by means of government decrees without having to amend laws. Government offices are exempted from this provision, which means that it is in line with the Public Administration Act according to which government offices are established by an act of the Parliament[76] and central agencies are set up by government decree.[77] The government has wide discretion when it comes to methods of legal and financial oversight over the executive branch, i.e. on whether to establish or dissolve particular bodies. Nevertheless, some limits are legally stipulated. The Public Administration Act defines the number of high-ranking officials that can be appointed in this context: government commissioner positions shall not exceed three, while the number of ministerial commissioners shall be no more than two. Each ministry can have only one secretary of state (deputy minister) and five state secretaries, the only exception being the Prime Minister's Office which is allowed up to ten state secretaries.[78]

The executive's Budget is subject to parliamentary approval on an annual basis, but at the end of 1999 a single Budget was passed for the years 2000 and 2001. If the Budget has not been approved by December 31, temporary financing may be introduced, but for no more than three months. If the Budget has still not been approved after the third month of temporary financing, the Budget of the previous year is used. By the terms of the Act on Public Finances,[79] the Minister of Finance draws up the budgetary policy plans for the following year. The persons responsible for each chapter (e.g. the ministers) draw up their proposals on the Budget of their particular chapter within the framework of the budgetary policy plans. These proposals are then submitted to the government by the Minister of Finance. The government submits the draft Budget to the Parliament by September 30.[80] The Parliament votes on the main sums of the chapters by November 30. The Budget Act for the following year is adopted by December 31. In fact, Since 1990 the Budget has always been adopted in due time, and so no temporary financing has ever been needed.

The implementation of the Budget Act is the task of the persons responsible for each chapter. They have to adjust and apply the budget of the institutions under their authority based on the Budget Act of the relevant year. After the relevant year, the draft act on final accounts must be submitted to the State Audit Office by June 30 and to the Parliament by August 31. The Parliament votes on the draft act. The process is often accompanied by controversies and debates, but in practice it is rarely significant since the Budget had already been implemented, although the SAO often emphasises the need for further reform in internal and external audit procedures.[81]

Accountability

The Government is responsible to the Parliament for its actions. According to the Constitution the Parliament votes on the election of the Prime Minister and the adoption of the government's programme at the same time.[82] Parliamentary supervision of the executive bodies is an area regulated by the Constitution, the Standing Orders of the Parliament and other pieces of legislation. As regards fiscal transparency and traceability, the yet-to-be established Budgetary Office of the Parliament[83] will have strong powers to investigate the public spending of the executive.[84] It should be noted that the current parliamentary majority enjoyed by the governing parties makes the audit functions of the Parliament rather a formality in practice. It should also be noted that under Hungarian parliamentary rules there can be no motions of no confidence against individual ministers. Even if the majority finds a minister guilty in a corruption scandal, the PM or minister is not obliged to stand down. This naturally weakens the accountability of individual ministers. Nevertheless, the rights of opposition and the publicity surrounding questions, interpellations and parliamentary inquiries and political debates may be considered control mechanisms in relation to the functioning of executive. Parliamentary committees of inquiry also have powers of control and scrutiny, but a lack of adequate and efficient regulation often makes it hard for them to perform these tasks.[85]

According to the Constitution, the government is required to submit regular reports on its work to the Parliament.[86] In matters concerning European integration there are detailed rules governing the supervision and control powers of the legislative body and its committees, the relationship between the Parliament and the government, and the government's obligation to disclose information.[87] The government informs the Parliament of the proposals on the agenda of EU institutions that require government participation.[88] As regards other high-ranking officials, the Public Administration Act regulates their accountability, especially their liability for damages, in detail.[89] With few exceptions, politicians are unlikely to take primary responsibility for their actions.[90] While resignation on grounds of political responsibility is very rare, high-ranking governmental officials do give up their positions after involvement in car accidents or in cases of disagreement on the government agenda.

There are several regulations that impose on Government an obligation to co-operate with citizens and social organisations, but these are relatively weak. On the one hand, the Legislation Act stipulates that the process of drafting laws must include co-operation with certain groups in society, i.e. the relevant jurisdictional, social and interest representation organisations should be involved in the process of legislation. On the other hand, the executive has no constitutional obligation to invite the unions and NGOs to participate in drafting bills.[91] Practice shows that consultation usually only takes place on the most important acts, with very little when it comes to government and ministerial decrees. The civic organisations to whom the proposals are sent are often selected on an arbitrary basis, and the system of consultation operates on the basis of a certain routine rather than transparent and unified rules.[92] The Freedom of Electronic Information Act has helped the civil organisations to engage more actively in the processes, since each ministry now has to disclose the draft bills and decrees under administrative negotiation on its official homepage.[93] According to watchdog organisations the implementation of this regulation is still patchy.[94] Ultimately, however, the decision to enact a particular final version of the bills remains at the discretion of the government.[95]

Integrity mechanisms

The Prime Minister, the ministers, state secretaries and deputy state secretaries are not permitted to continue or enter into other contractual employment relations. The Prime Minister and the state secretaries may, however, be members of Parliament and they may engage in scientific, educational, artistic, literary advisory, or editorial activities and intellectual activities within legally stipulated bounds. If the Prime Minister does not act to terminate a situation of conflict of interest within thirty days of his/her appointment, or if a conflict of interest arises during his/her term of

office, the Parliament may take a majority vote on that conflict of interest initiated by the written proposal of any representative. If a minister (secretary of state) does not terminate a situation of conflict of interest within thirty days of appointment, or if a conflict of interest arises during his/her term of office, the President of the Republic may decide on the conflict of interest on the proposal of the Prime Minister within thirty days.[96] In practice these rules are regarded as quite effective, and the persons concerned terminate the conflict of interest voluntarily.[97]

Hungarian law contains no explicit regulation on the acceptance of gifts or hospitality apart from the general obligation to list them in the declaration of assets required of those who work in the public administration. On the other hand, criminal law provisions on bribery and trading in influence may be applied to these situations. The criminal law makes it an offence for public officials simply to accept undue advantages, even without proof of intent to breach official duties. The term 'undue' advantage denotes something that the recipient is not lawfully entitled to accept or receive, and this is a formula designed to exclude advantages permitted by the law or by administrative rules. Small gifts, gifts of very low value or socially acceptable gifts are exempt. It is up to the courts to decide what is to be considered socially acceptable. A bunch of flowers, or an invitation for a coffee may be regarded as acceptable whereas, a dinner invitation or an expensive beverage may qualify as undue advantage.[98] A high-ranking police officer was charged, but acquitted, after accepting a box of chocolates and other gifts of minor value from an informant during an undercover mission to investigate a series of serious economic crimes.[99]

The Civil Servants Act contains rules of a general ethical kind (e.g. civil servants may not conduct activities unworthy of the office of the civil servant or threatening the impartial conduct of their work). There are no uniform codes of conduct, however, and each institution may issue its own code for its civil servants.[100]

In most cases there are no rules on the post-employment of civil servants. In 2002 one of the civil service unions drafted a comprehensive code of conduct[101], but the project was abandoned. In 2003 the government announced preparation of a code of conduct for high-ranking officials, but this initiative failed as well.[102] Existing codes are considered 'soft law', without legal consequences. This all means that the most effective provisions against corrupt activities, including the acceptance of gifts and hospitality, are still the criminal statutes penalising crimes of corruption.[103]

Transparency

There is no general law on declarations of assets in the central administration, but individual legal provisions apply to civil servants among others.[104] High-ranking government officials (the Prime Minister, ministers, secretaries of state and state secretaries) are required to submit asset declarations within thirty days of appointment, and thereafter annually, and also within thirty days after the termination of their mandate.[105] If a government official fails to submit a declaration of assets, he loses his remuneration and is no longer authorised to exercise the powers of his office.[106] Given these tough financial and professional sanctions, the officials involved always comply. The personal data including property assets are registered at the Prime Minister's Office, while the head of the Prime Minister's Office is responsible for the disclosure of assets on the official government website.[107] In practice, however, the problem of real power of oversight and investigation in relation to asset declarations is glaring and unsolved. Indeed, the system is regarded as so deficient as to be almost entirely unable to prevent corruption.[108] Current law imposes no sanctions on false declarations, and provides no basis for the confiscation of non-declared assets acquired from possibly illegal origins.[109]

The Act on Lobbying[110] lays down the fundamental guidelines on lobbying activities, mainly by economic interests, with a view to ensuring the public visibility of the role of lobbying in the decision of public bodies and at the same time strengthening confidence in the activities of the executive. Affirming the importance of transparency when it comes to the attempts by business to influence legislative and administrative action, the Lobby Act prescribes that if anyone (a natural or legal person, or business association lacking legal status) wishes to engage in lobby activities without being registered, the body operating the register may impose a penalty of up to ten million forint by resolution.[111]

The Budget is public and accessible to everyone, being adopted in the form of an act of the Parliament, and published in the Hungarian Official Gazette. The same rule applies to the extra budgetary funds, which are regulated in the Budget Act. The Government notifies the public via the media on the use of reserves (e.g. in the form of press conferences). One particularly important government body concerned with providing information to the public is the Government Communication Centre in the Prime Minister's Office, staffed by government spokesmen.

Complaints/enforcement mechanisms

There are no special provisions on whistle-blowing in Hungarian law. The Hungarian Criminal Code, however, provides protection by making it an offence for any person to take detrimental action against a person for having made an announcement of public concern. The offender is liable to a prison sentence not exceeding two years, community service or a fine.[112] This offence is very rarely investigated by the authorities,[113] allegedly because of the difficulties of proving the special intent required by the definition of the offence.[114] If the member of the executive concerned is not a Member of the Parliament, he or she does not enjoy immunity, and so prosecution can be initiated[115], as has already happened to a former state secretary accused and found guilty of corrupt activities.[116]

In general, the central administration can infringe civil rights in two ways, either by an executive decision (e.g. a decision to expropriate) or by a normative statutory regulation (e.g. a governmental decree). In the case of executive decisions violating civil rights the Hungarian legal system provides several legal remedies. According to the Constitution, everyone has the right to seek legal remedy in accordance with the provisions of the law against administrative decisions infringing rights or justified interests.[117] The courts have the power to review the legality of decisions made by the public administration.[118] After the political transition in 1989, the Parliament created the legal basis of the new Republic governed by the rule of law. Act XXVI of 1991 on the Extension of Judicial Review of the Executive was a milestone in this process. This act gave every citizen the right to appeal against any executive decision infringing civil rights.[119] If the court finds that the law has been violated, it annuls the administrative decision and – if necessary – orders the administrative authority to adopt a new procedure. The court is not entitled to change (as opposed to annul) the decision of the public administrative body, except in certain cases by Act of Parliament, but if a new procedure is ordered by the court, the public administration body is bound by the instructions of the court.[120]

Individual citizens can sue members of the government for violation of civil rights, but most of these legal proceedings are started by non-profit human rights watchdogs, such as the Hungarian Civil Liberties Union and the Hungarian Helsinki Committee. Recently these NGOs have sued, among others, the Prime Minister[121], the Minister of Justice and Law Enforcement,[122] the Minister of Health, and the National Police Headquarters generally for violation of laws on disclosure of information of public interest.[123] In cases of infringement of civil rights a complaint to the ombudsmen is also a possible legal instrument in the hands of citizens. Every citizen has the right to seek remedy in the Constitutional Court by an 'actio popularis'.

Relationships to other pillars

The executive is beyond doubt the most powerful branch influencing the operation of the state, the everyday life of each citizen and all other integrity pillars as well. Its decisions have an impact on all segments of society, while the same direct effect is not always evident in the case of the legislative or the judiciary. Consequently, the checks and balances essential to all functioning democracies need to be established and safeguarded even more carefully in relation to the executive than to other branches. Clearly identifiable steps have been taken to extend the concept of government to involve governance rather than mere governmental functions by creating a more transparent and flexible administrative system and forums for NGOs to participate in the various processes. Nonetheless, in terms of power the other pillars of the NIS system are still dwarfed by the executive when it comes to potential to fight corruption. Clear guidelines need to be established for the policies and institutions launched in this field – with the least political influence possible.

Legislature

Role of institution/sector as pillar of NIS

According to the Hungarian Constitution, the National Assembly is the supreme body of state power and of popular representation (Art. 19.). The Constitution further states that in exercising the rights conferred on it on the basis of national sovereignty, the National Assembly shall guarantee the constitutional order of society and shall determine the organisation, orientation and conditions of government. As part of these responsibilities the National Assembly adopts

legislation. Acts are the highest source of law and the Parliament is free to pass legislation on whatever subject it deems fit. In theory, the power of legislation is deemed to be exercised independently.

While bills may also be presented to the Parliament by the President of the Republic, by a parliamentary committee or by an MP, the overwhelming majority of the acts passed are initiated and drafted by the government. This is because most legislative fields are subject to normal legislative procedure in the sense that the passage of a bill requires a simple majority of the votes, for which the government traditionally holds the necessary number of seats. There are, however, fields where acts are constitutionally required to be adopted by qualified majority (two thirds majority), and which therefore require four-party or five-party-compromise. These fields include legislation on the police, on secret intelligence gathering, on the remuneration and benefits, legal status, and conflicts of interest of MPs, the rules of parliamentary procedure and many others. While such procedural requirements may seem to strengthen guarantees of continuity and reduce the danger of arbitrary legislation, in many cases they have made it almost impossible to legislate on those fields at all, because of permanent unwillingness to compromise on all sides. As an example, although Hungary is a signatory to the Rome Statute of the International Criminal Court, the necessary implementation continues to be held up by the question of the immunity of the head of state, an issue which would require such a political compromise. It should also be noted that while the National Assembly is independent, there are limits to its powers set by the constitution, by international treaties and binding referendums.

The autonomy of the Parliament and its function as a check on executive power is seriously jeopardised by the narrow political role attributed to it by the political actors themselves. The fact that members of the opposition leave the room whenever the Prime Minister speaks sends a rather negative message to the public and suggests that the political parties do not take the work of the Parliament seriously (as does their unwillingness to make a compromise). Both sides are currently trying to attract political sympathy by proposing excessive use of referendums, thus weakening the legislative role of the Parliament still further.

The National Assembly has no right of veto over appointments to top government posts. The national government centres on the position of the Prime Minister, which is constitutionally very strong. After being elected by the National Assembly the Prime Minister is free to invite anyone to join the government or take other high ranking positions as long the person has the political support of the majority. Individual ministers in the government are not subject to parliamentary votes of confidence, but only to the Prime Minister's authority. As a formality, candidates must be interviewed by parliamentary committees. In the case of ministers the formal right of appointment belongs to the President of the Republic, but in practice nomination by the Prime Minister is followed by appointment. The National Assembly elects the President of the Republic, the members of the Constitutional Court, the Parliamentary Ombudsmen, the Chair of the Supreme Audit Office, the President of the Supreme Court and the Prosecutor General, and a number of other officials.

The Constitution also invests in the National Assembly the responsibility to assess the balance of the State Budget, and approve the budget and its implementation. The reference to 'approval' implies that that the budget is prepared by the government. The National Assembly debates and adopts the budget in the form of an annual regular act. The draft budget is presented to each committee, their expert opinion is summarised by the Budget Committee and is then submitted to the Parliament. The plenary is free to adopt amendments so long as they have the necessary political support; amendments often occur in this phase.

Resources/structure

The Hungarian Parliament has only one chamber with 386 representatives, elected for four-year terms in a mixed procedure. 176 representatives are elected directly in individual constituencies in a two-round system, while other seats are distributed on the basis of a proportional representation system, using closed party lists and the D'Hondt method of calculation: 210 representatives altogether are elected from a regional and from a national list.[124]

The basic organisational component of the National Assembly is the political group or faction. One political party may establish only one political faction in the Parliament, and so the number of factions usually mirrors the number of political parties that have won the minimum electoral support required for presence in parliament, i.e. at least 5 per cent of the votes for its regional or national list. A member of the political faction does not necessarily have to be the member of the relevant party.

There are 18 standing committees in the Parliament, and these closely mirror the structure of the government. According to the rules of parliamentary procedure, the National Assembly forms standing committees on the occasion of its first session following elections. Standing committees have powers and duties of initiative, advice, proposal and in certain cases, decision-making in the Assembly. Standing committees discuss and report on legislative proposals and supervise the work of ministers. Meetings are open to the public but a committee may order a closed meeting. A word-for-word official report is accessible on the Parliament's web-site. In the majority of standing committees the principle of proportionality is respected, with seats offered according to the proportion of mandates held by the political groups.

The Parliament may also establish ad hoc committees and select committees to examine specific questions. Eight of these were in existence in October 2007. If the proposal is supported by one fifth of the members a select committee must be established. The Constitutional Court declared in its decision no. 50/2003 of the 3rd of November 2003 that the National Assembly was in violation of the Constitution by failure to adopt an act on rules of procedure for ad hoc committees and select committees, including provisions ensuring the efficiency of their investigations. There is also a general feeling that some committees may lack the power or the will to conduct the necessary 'investigation' within the scope of their remit, and that they have been set up simply to create the impression of being engaged in investigation, especially in cases of corruption.[125] This suspicion is illustrated by a recent case: in June 2007, two MPs submitted their proposals for the setting up of two select committees to investigate allegations of bribery in the defence sector.[126] Even though this might seem a chance for both the government and the opposition to clear themselves of the 'charges' in the eyes of the public, none of the parties appear to have an interest in an investigation of the contracts concerned, and so neither committee seems to enjoy the necessary support to start functioning as of mid-October 2007.

There are also limits to the subjects of investigation. For instance, questions referred to the competence of the Constitutional Court, the State Audit Office or the municipalities powers may not be examined by a committee. Committees report on their work to the Parliament, which later debates adoption of the report. In committees with special authority there are as many representatives from the governing parties as from the opposition. The significance of such committees would be emphasised if meaningful conclusions were presented to the public.

The Budget of the National Assembly forms part of the Act on the State Budget.[127] For 2007, the Act provides for 75 699,5 million HUF (302,798 million EUR) of expenditure for the Assembly. This sum also includes the budget for the national television and radio, political parties, financial assistance with the foundation of political parties the self government of national minorities, and other bodies closely connected to the Parliament. The key figures are set by the act but the details within this framework do not require legislative approval.

From the date of election, MPs are entitled to allowances which consist of a base salary and a supplementary fee.[128] The base salary is six times the salary-base of a civil servant (i.e. 6x36,800 HUF, 6x147,2 EUR). This is obviously a modest amount, which has not been adjusted for inflation in 2007, and only by a very small percentage in previous years. Since it is pegged to the salary-base of the civil servants and the government refuses to raise that salary-base to an acceptable level, MPs are entitled to special treatment and special benefits as 'compensation'. Those special benefits and refunds are generally set as flat rates, and so MPs do not have to prove that they have spent the allowance on the purposes for which it was specifically designed. There is a great deal of public criticism of the fact that representatives are entitled to allowances without being required to provide bills or receipts on expenditures.[129] For example, depending on the distance between the relevant constituency and the Parliament, an MP may be entitled to up to 160 per cent of the base allowance under the title of travel expenses. There is also a flat rate for accommodation if MPs do not accept the accommodation offered by the Office of the National Assembly. In some cases MPs are entitled to receive reimbursements without having actual expenses.[130] In addition, every MP holding a function is entitled to a supplementary fee, and these are cumulative if the person holds more than one functions at the same time. For example, the supplementary fee is 70 per cent of the base allowance in case of membership of a committee (the maximum sum is equal to supplementary fees after two committees per person), or 120 per cent of the base for the head of a political faction. Since it is the political factions that distribute membership in the committees, the head of a political faction has a great deal of leverage to require unconditional loyalty.

Accountability

Since the National Assembly is the supreme body of the State power and of popular representation, the limits to its powers are very few. In a broad sense, the President of the Republic, the Constitutional Court and the State Audit Office (which is an organ of the Assembly itself) have certain powers that form part of accountability mechanisms.

According to the Constitution, the President of the Republic has the right to participate and speak during the sittings of the Parliament and of its committees, to petition the Parliament to take action, and to initiate a national referendum (Art. 30/A.§). Bills adopted by the Parliament are signed by the Speaker of Parliament and sent to the President of the Republic for approval. The President of the Republic may order either the reconsideration of the bill by the Parliament or the examination of the bill by the Constitutional Court.[131] If the President exercises his right of *political veto* for political or economic reasons, the bill is returned for reconsideration along with his comments, and may then be passed by a majority of the Parliament. If it is passed, the President of the Republic is required to promulgate the act within five days. The Constitutional Court may use its *constitutional veto* to declare that an act or part thereof is against the Constitution and void.[132] The Constitutional Court has the power of constitutional review in relation to acts and other legislative measures adopted by the Parliament. These measures also include the rules of procedure of the Parliament adopted in the form of a decision by the National Assembly. The presidents of the republic have used both types of veto regularly, although not very often. President Göncz used them ten times altogether between 1990-2000, President Mádl 20 times from 2000-2005, and President Sólyom seven times in 2005-2006. In addition, the Constitutional Court found some of these vetoed bills unconstitutional. The presidential veto and the Constitutional Court's powers of review are the only means to hold Parliament accountable in its legislative role.

As far as accountability in relation to the budget and public expenditure is concerned, the State Audit Office (the organ of the Parliament responsible for financial and economic auditing) oversees the management of public finances. It reviews the proposed State Budget, the legality of proposed expenditures in advance, and the necessity and expediency of expenditures. It countersigns contracts pertaining to credits taken out by the State, and audits the final accounts of the implementation of the State Budget. It also monitors the management of State assets. Although its competence does not expressly include combating corruption, the inspections carried out can make an important contribution to informing decision-makers on problems in public finances. On the basis of its inspections, this organ prepares and submits proposals aimed at the elimination of loopholes in statutory regulations, and also plays an indirect role in crime-prevention. In addition, the publication of the results of the audit exercise contributes to tightening up processes of public expenditure. In order to achieve this objective the SAO prepares comprehensive studies to identify and analyse the causes of corruption and to indicate the risks and trends.[133] Under Article 25 of Act XXXVIII of 1989 on the State Audit Office (hereinafter Act on the SAO) a person conducting an audit is obliged to inform the relevant authorities if he or she finds that there is a reasonable suspicion of a criminal offence; in the case of any other omissions, he or she may initiate disciplinary measures in advance of the employer of the individual/s concerned.

The Parliament may vote for an early dissolution. Furthermore, the President of the Republic has the right to dissolve the Parliament while at the same time ordering new elections if the Parliament passes a motion of no-confidence against the government on at least four occasions within twelve months in the course of one term. None of these mechanisms has been used in the history of modern Hungarian democracy.

The most important basis of accountability is publicity.[134] The plenary sessions of the parliament are broadcast on radio and on television (even though terms of broadcasting are highly criticized, see chapter on Media), and the minutes are kept in the library and are accessible on the Internet. At national elections citizens may hold members of the legislative power accountable by voting against them.

In general citizens do not participate in the budgetary process, and this is also true for processes relating to integrity and anti-corruption. So far as proposed government legislation is concerned, there is a legal obligation to make it public in due time to enable public debate to take place.

Integrity mechanisms

The Parliament does not have an anti-corruption committee. In the present term there have been initiatives to investigate specific instances of corruption, but investigation is not yet underway. In

September 2007, an ad hoc committee was established to investigate public contracts within the competence of the National Assembly, Prime Minister's Office and the ministries by which property was transferred to entities not belonging to the state without due consideration between 1998 and 2006. Another committee has been set up to investigate allegations of corruption related to a charity fund.[135] During the previous term of the Parliament (2002-2006), the opposition parties proposed the establishment of an ad hoc committee to investigate allegations of bribery related to the government but did not receive the necessary support.[136]

The Act on Lobbying[137] regulates relations between lobbyists and the organs of government, including the legislature. It is obligatory for a representative of the legislative power to make a record of personal contacts in which he/she summarises the major points of the meeting. In the same way the lobbyist must record his/her contacts and make a quarterly report for the registry office.[138] To ensure equal rights and impartiality among lobbyists, the Act on Lobbying prohibits the lobbyist from offering or giving financial or any other benefits to representatives of the legislature and their relatives. It does not prohibit lobbyists from inviting MPs and those involved in decision-making to scientific conferences or meetings, but the expenses of the latter cannot be refunded in these cases. Lobbyists are allowed to influence the decision-making process by providing background information, materials, publications and research results as a means of contributing to better decision-making. The scope of the Act is rather limited since regulations do not apply to several lobby organisations such as NGOs and unions. According to the political press, lobbying is sometimes very intense in Parliament, e.g. in cases like the bill on the tobacco industry and trade and the bill on the opening up of the electricity market. In this context, cross-party coalitions emerged among MPs to amend government bills.

At the moment there exist no codes of conduct or codes of ethics for MPs, although there have been demands for them and the subject is still on the agenda. MPs are free to leave their parties. Having once resigned or been expelled an MP must be considered an independent and after six month he/she may join any other party.

The question of conflicts of interest is regulated by the Constitution, the rules of procedure of the National Assembly and the Act on the Legal Status of Parliamentary Deputies. MPs cannot occupy certain positions (i.e. be a member of the Constitutional Court or of the State Audit Office), and cannot head any nationally or regionally published daily newspaper, or nationally or regionally broadcast television or radio. An MP can be neither director general (director, deputy director) of state-owned companies, nor a member of their advisory or supervisory boards. MPs cannot represent any state-funded institutions either. In late 2007, the Prime Minister, as part of efforts to make a clear division between local and national government, announced government plans to prohibit MPs from serving as mayors in municipalities from 2011.

Special rules on gifts and hospitality can be found in the Act on the Legal status of representatives. They cannot accept any gifts or hospitality exceeding the value of two months of the existing base allowance for two month (i.e. 1766 EUR). Gifts or other hospitality falling below this amount in value must be reported as part of the MP's declaration of income, assets and economic interest.[139] Given that the threshold for gifts is very high compared to other sectors where codes of conduct exist, and also that at least the Criminal Code, in theory, takes an approach of zero tolerance to undue advantage, this situation must be a true source of concern from the point of view of corruption.

Transparency

Since 1997, MPs have been obliged to submit declarations of interests, income and assets, covering also those of their close relatives living in the same household. The declaration of assets of MPs is governed by the Act on the Legal Status of Parliamentary Deputies.[140] The main characteristics and drawbacks of the system of declaration of assets are the same as those of the system for government officials (see Executive). MP's declarations of assets are public and are inspected by the Immunity, Incompatibility and Mandate Supervision Committee. In case of failure to declare his or her assets, the representative cannot receive any allowance or exercise his rights as an MP. In practice, the current system of declaration of assets lacks any checking mechanism and so is unable to prevent corruption.

Complaints/enforcement mechanisms

There are no rules for whistle-blowing protection as such. Conflict of interest is the only grounds for revoking a mandate. MPs are entitled to immunity according to which they cannot be held

legally responsible for their votes or opinions expressed during their term. This immunity does not extend to the offence of disclosure of state secrets, libel, and slander,[141] and is justified as guaranteeing the freedom to express personal opinions on the conduct of the legislative power in connection with the public affairs discussed.

Temporary immunity is guaranteed under the Constitution to Members of Parliament. Article 551(1) of the Act on Criminal Procedure stipulates that no criminal proceedings may be instituted against MPs, and the immunity applies to acts performed in the course of as well as outside the performance of their duties. In the case of criminal or administrative offences not related to the mandate, the person may be taken into custody only if caught in the act and can be prosecuted only with the Parliament's prior approval. The person may also be prosecuted after his or her mandate has expired provided that the statute of limitations allows such prosecutions. Only the Prosecutor General may initiate the procedure for the lifting of immunities, by submitting a request for suspension of immunity to the body or person authorised to suspend the immunity. Pursuant to article 552(2) of the Criminal Procedure Act, where the competent authority refuses to lift immunity the statute of limitations is suspended for the duration of the immunity. Immunity from certain investigative measures may constitute an obstacle to effective investigation of other natural and legal persons involved in the same alleged bribery transactions or in related offences, for whom the statute of limitations continues to run. The authorities need to ensure that immunity does not impede effective investigation and that the evidence is gathered in due time. It is important to note, however, that the statute of limitation starts to apply only from the date when the right of immunity ceases to be operative. This is also demonstrated by case law.[142] Thus if an MP commits a traffic offence s/he can be prosecuted after s/he has ceased to be an MP (if the immunity is not lifted). Furthermore, the Parliamentary Committee for Immunities issued general guidance concerning corruption cases in 2004 stating that in corruption cases the immunity of MPs had always been suspended regardless of the political interests at stake, and that practice was to be followed in the future.'

Relationships to other pillars

As in most parliamentary systems of government, the legislature is formally the supreme power and appoints the executive. According to Art. 39 of the Constitution, the executive is constitutionally answerable to the Parliament, and is required to furnish the Parliament with regular reports on its work. Members of the Government are responsible to the Government and to the Parliament and must provide the Government and the Parliament with reports on their activities.[143] Ministers may participate and speak at sittings of Parliament.

The Parliament adopts acts which are then implemented by the civil service, the judiciary and the law enforcement agencies. Ombudsmen and the State Audit Office have to report to the Parliament. Ordinary courts have no formal right to ignore or delay the application of legislation in force; only the Constitutional Court is empowered to declare statutory provisions adopted by the Parliament void. The Prosecutor General is elected by Parliament on the recommendation of the President of the Republic for six years. S/he cannot receive instructions on specific cases from anyone and is only answerable to Parliament, to which s/he submits annual general reports.

As suggested above, if the initiatives needed to investigate cases of corruption were accorded more support and muscle, the National Assembly would be able to contribute in a more successful way to the NIS. This would also do much to end the crisis of trust in politicians. In the second half of 2007 all public surveys show that the popularity of MPs among the population is at an all-time low.

Political Parties

Role of the sector as a pillar of NIS

The basic rules that govern the formation and activity of political parties were adopted in 1989 and have remained largely unchanged ever since.[144] The administrative rules for party registration and operation are not burdensome enough to pose real hurdles for individuals intent on forming and running political parties, and the only substantial restriction on party formation is that it is illegal to form and operate a party with the goal of seizing exclusive power.[145]

The political as well as the electoral process is structured around parties. Parties are the main actors in elections. Individuals and NGOs may also nominate individual candidates if they meet the nomination requirements, but only parties can draw up the regional and national candidate 'lists', from which a majority of the seats in parliament are allotted. The supreme law-making institution, the Parliament, also operates on the basis of party logic: the main actors are not the individual MPs but the parliamentary factions (caucuses).

The regulatory framework creates no difficulties for the formation and operation of opposition parties. Although the parties of the incumbent government enjoy certain structural advantages during campaign periods, such as government-paid ads and the use of administrative resources, there is no evidence that these advantages together amount to a seriously uneven playing field. In fact, all but one of the five parliamentary elections since 1990 have resulted in the dismissal of the incumbent administration. Nonetheless, it would be desirable to reduce or eliminate the advantages mentioned through more rigorous regulation of government ads.

The rules governing party funding were developed during 1989 and have remained mostly unchanged. Reflecting the needs of the newly formed and resource-poor democratic parties at the time, the rules allow for many legal channels by which parties can raise funds, including public finance, individual donors, corporate contributions as well as donations from foreign entities other than states.[146] The parties cannot accept donations from fully or partially state-owned companies, or from foundations that receive state subsidies, and all donations must be appropriately recorded. Despite this latitude in the legal sources of party-funding it is widely believed that the greater part of the parties' overall funds comes from off-the-books contributions. The same fundamental rules apply to the campaign period as well.

The political parties are both formally and practically independent: they develop their policy proposals and conduct their activities in a largely autonomous manner. There is no party currently represented in the parliament that would be hostage to a single economic interest group or other entity, such as the military, state bureaucracy, etc.

The political parties that are represented in the parliament are perceived by the Hungarian public, by and large, to be very corrupt. Parties emerge as the least respected and trusted institutions in all relevant opinion surveys. As an acknowledgement of this public perception, all parties, but especially those in opposition, make regular references to the need to eliminate corruption from public life. In 2001, the Fidesz-led government introduced assets declarations for MPs. Anti-corruption was a centrepiece of the campaign platform of both the socialist and the liberal party before the 2002 election, and indeed disclosure rules and freedom of information regulations were subsequently strengthened. More recently, the centre-right opposition party MDF made fighting corruption central in its agenda, mobilising particularly against the alleged corruption of the two large parties (the current senior governing party, the centre-left MSZP, and the main opposition party, the right-wing Fidesz). MDF's policy prescriptions in this area remain, however, generally unspecific. There is no single-issue anti-corruption party in Hungary, and there is no state party either.

Resources/structure

Beyond those in the parliament, there are over a hundred registered parties in Hungary, but only one or two at most of the extra-parliamentary parties have any chance of even occasionally influencing the political agenda, let alone getting into Parliament. Nominally, there are five parties represented in the Parliament, but one of them, the Christian Democratic People's Party (KDNP) gained its position in the legislative in alliance with Fidesz and represents no independent constituency of its own. The other four parties (MSZP, Fidesz, the liberal SZDSZ, and MDF) have been continuously present in the parliament since 1990.

Parties can legally receive contributions from individual, corporate, and even foreign donors, as well as from NGOs, and there is no limit to contributions from any of these sources. There is a ban on anonymous donations,[147] and donors of more than 500,000 HUF (or approx. €2000) per year must be disclosed in the annual financial report of the parties, published in the Official Gazette of Hungary.[148] Parties can, however, get around the ban on anonymous contributions by establishing foundations that can receive such donations, and these then make donations to the parties themselves. Parties must keep records of all of their financial transactions, including donations. In addition to contributions from private sources, parliamentary parties receive significant government subsidies according to a formula that favours the larger parties.

To judge by their financial reports, about seventy per cent of the parliamentary parties' registered incomes comes from government subsidy, and the rest comes from members' fees (less then five

per cent) and private contributions. In practice, it is believed that parties have very significant incomes from unreported corporate contributions. This belief is underwritten by evidence from the visible campaign activities of parties. At prevailing market rates, the reported incomes of the parties could finance only a fraction of the ads that they actually buy during campaign periods.

Parties may receive unlimited donations from foundations that are not subject to the same disclosure rules as the parties themselves. This creates a loophole whereby parties can bypass disclosure regulations.

According to a 1997 amendment to the law on electoral procedure, each party can spend no more than 386 million HUF (or about €1.54 million) during a parliamentary election campaign.[149] According to independent estimates, most parliamentary parties spent several times that amount during the last campaign period in 2006.[150] The parties must submit a separate report on their campaign spending, and it is the duty of the State Audit Office to oversee the reports' accuracy.

Accountability

Act XXXIII of 1989 provides for the oversight of political parties. Different aspects of the parties' activities are overseen by different agencies. This means that the electoral commissions and ultimately the courts oversee the parties' compliance with the electoral and campaign regulations (other than spending) during the campaign period (see chapter on Electoral Commissions), while the State Audit Office oversees their compliance with the spending regulations and their finances in general. The electoral commissions have the power to annul election results if they find substantial violations, though they have never exercised this power in parliamentary elections. While it is generally accepted among independent observers that there are no major electoral irregularities perpetrated by parties of a kind that could significantly influence the outcome of elections, there are many unsubstantiated rumours about chain-voting, vote-buying, the use of illegal databases, and mobilisation on voting day, which is illegal under existing rules. Even if some of these allegations are well-grounded, however, they are not on a scale that could affect overall election results. Spending regulations, by contrast, are widely believed to be regularly violated by all parliamentary parties.

Parties must report on their finances to the State Audit Office each year,[151] and indeed they do so in the formal sense. On the other hand, the SAO restricts itself to examining the books that the parties themselves submit, without conducting investigations of its own into the actual practices of the parties. As a consequence, no major party has ever been found to be in violation of the campaign spending rules, although minor irregularities in book-keeping have been discovered.

Other than the annual financial reports, the parties have no obligation to disclose their activities to the public, nor are they required to consult the public. To be sure, it is in the primary interest of the parties to be knowledgeable about and responsive to electoral attitudes.

Integrity mechanisms

There are no specific regulations regarding the internal governance of parties other than a provision in Act II of 1989 (on association) making it a necessary condition for the establishment of societal organisations, including parties, that they elect representative bodies and officer(s) responsible for management. It can be inferred from this regulation that liability for any financial irregularity that may be identified by the SAO lies with the designated chief financial officer or the chairman of the party.

Parliamentary parties usually have codes of conduct. Typically, they have separate codes for elected representatives (MPs, mayors, or local councilmen) and party members with no elected office. Although there is no ban on persons under investigation running for office, it is quite common for parties to withdraw candidates that are at the centre of ethics scandals, making them political liabilities. In most parliamentary parties there are ethics committees for the investigation of unethical conduct.

There are a number of offices that cannot be filled by persons who are members of a party. Thus, party members cannot be Constitutional Court justices, judges in the ordinary judiciary, public prosecutors, or professional members of the military, the border guard, the police, and the intelligence agencies. Civil servants may not hold offices in parties. There are special conflict-of-interest regulations in force regarding members of parliament: MPs cannot be board members or executives of state-owned companies or of companies with a share of more than 10 per cent owned by the state, nor can they be co-owners of such companies.[152] Also, MPs cannot be board-

members, executives nor have shares in companies that participate in public procurement, although these regulations are widely believed to be ineffective because spouses and other family of MPs are not barred from receiving such government contracts. Public procurement is widely believed to be an area heavily infected with corruption both at the national and municipal levels, and to be a major source of illegal party funding. Media reports of such abuses are numerous, although few cases reach the stage of indictment, let alone conviction. The regulations that apply to local government council members are much more lax: council members can be and often are appointed to the board or supervisory body of companies owned by that local government (e.g. utility companies). Ostensibly this is to ensure that the companies operate in the best interest of the municipalities concerned, but in fact the practice is largely seen as a form of political patronage.

There are no rules regarding hospitality, and this is a glaring omission as far as MPs are concerned. There are repeated media reports that corporations seeking government contracts treat MPs and especially officials in the relevant ministry to lucrative trips and other goods. On at least one occasion during the previous legislative cycle, two aides in the Ministry of Education were forced to resign following disclosure that they had accepted invitations to such trips by a corporation that had contracts with the ministry.[153] The rule regarding gifts stipulates that MPs may not accept gifts of a value that exceeds, for any one gift, the bi-monthly basic salary of MPs.[154] As there is no cap on the total value of gifts that MPs may accept annually, and as the bi-monthly pay cap is itself unacceptably high, the rule on gifts is inadequate. In order to be effective, the provisions regarding gifts and hospitality for ministry officials should probably take the form of binding rules rather than codes of conduct, as in the case of MPs. It would be reasonable to adopt a disclosure rule regarding any trips of two or more days by MPs, including information on who paid for it. The only post-employment restriction on MPs stipulates that for two years after the expiry of their mandates MPs cannot be chief officers of concession companies.[155] Arguably, post-employment restrictions in a parliamentary system such as Hungary's are more relevant for officials of ministries and other regulatory agencies than for MPs. There have been sporadic media reports of former officials involved in the planning of regulations in specific areas (tobacco ads, telecommunications) getting lucrative jobs in the industries affected by the decisions that these officials made in their official capacity. In one particular case, the Finance Ministry official responsible for tobacco taxes got the job of 'government relations manager' at a large tobacco company's Hungarian affiliate.[156] This 'revolving door' phenomenon (very scantily exposed in the case of Hungary) could be efficiently dealt with only by a detailed several-year ban on employment in the relevant industries.

Transparency

Act XXXIII of 1989 requires that all parties in receipt of government subsidies (i.e. all parties that received more than 1 per cent of the national vote at the last parliamentary elections) publish all their revenues and spending in the Official Gazette of Hungary, annually by April 30. In addition, parties must submit a separate report on their campaign spending six months after the parliamentary elections. It is the responsibility of the designated officials within each party (usually the financial officer or the chairman) to prepare and sign the reports. According to currently available information, no party uses external auditors to audit their finances, but parties have the resources and expertise at their disposal for accurate book-keeping. If irregularities occur it is certainly not for lack of such resources.

It is the duty of the State Audit Office to review these reports and check their accuracy, but the SAO has repeatedly stated that it lacks both the authority and the resources to conduct investigations of the parties practices based on independent sources such as media monitoring companies to track political ads, and thus it restricts itself to reviewing the books that the parties themselves submit to it. This means that off-the-books revenues and spending are beyond the reach of the SAO because of a self-limiting principle of questionable legal basis. The SAO's narrow interpretation of its own authority is disputed by some experts (the relevant provision states without further specification that the SAO 'oversees the financial management' of the parties), and it has been suggested that the SAO merely wants to avoid conflicts with powerful parties. In principle, the risk-averse attitude of the SAO seems unreasonable; precisely in order to protect the independent status of the office, the law provides for unusually strong guarantees.

It must be added, however, that even if the SAO were to interpret its authority more broadly, current regulations would still make it impossible for it to review campaign spending and to establish grave violations e.g. of the spending limits. As an SAO-report several years ago accurately stated, current regulations do not even define which costs should be considered

campaign costs.[157] In these circumstances, enforcement of spending limits is unrealistic. Furthermore, current regulations allow for third parties to cover campaign expenses such as buying ads on behalf of parties. These expenditures are then not reported, ostensibly because they were not incurred by the parties themselves.

These loopholes show that current regulations regarding disclosure are wholly inadequate, especially in the area of campaign spending. A proper legally valid definition of campaign costs has to be established. Third-party payment of costs on behalf of parties should either be banned or disclosed as part of a party's spending. In addition, parties should be obliged to keep track of every campaign event (including ads) by the parties or their candidates and to report on the specific costs of each reported event rather than just to submit a summary report of their campaign spending. This could make oversight and enforcement much more effective, since campaign events (rallies and ads) can be easily monitored.

Currently, parties are legally obliged to publish only a summary of their financial reports in the Official Gazette of Hungary. While they comply with this requirement, its usefulness is very limited. Campaign costs, for example, are provided in a single line in the form titled 'political activities', with no further breakdown being required. Another rubric gives 'operational costs', but once again only the bottom line must be disclosed. Although the media regularly reports these statements at the time when they are published, these summary forms are hardly useful guides for the public. It is therefore clear that in line with the recommendations mentioned in the previous paragraph, parties (and possibly individual candidates) should be required to publish a complete breakdown of their spending.

Media coverage of party and campaign finance issues has recently become more intense, but reports by the media and watchdog organisations are necessarily limited to rough estimates of the actual volume of spending. These calculations rely on campaign activities that can be easily tracked, such as rallies and ads, and they concur in suggesting that especially the two large parties spend several times more than the spending cap set by law. This indicates a problem much larger than simply the violation of a specific spending limit: it implies that parties spend several times the amount of money they declare themselves to have, which means that they have very large undeclared revenues. While this inference, if true, is very worrying, it seems that there is also another underlying problem. The subsidy that the parties receive from the government, together with the fees and contributions they legally receive, barely covers their routine operational costs and does not even begin to meet their campaign needs. Stricter disclosure rules and enforcement mechanisms may provide only partial remedy for this situation; in order to be successful, they must be coupled with increased subsidies and measures that give incentives to parties to disclose their actual costs and to raise money from legal sources.

Complaints/enforcement mechanisms

There are no provisions regarding whistle-blowing inside political parties. It is arguable, however, that any such provision would be of relatively little use when the most common motive for exposing wrongdoing or irregularities in a party's activities is the political advantage that its rivals may secure through the exposure. It is not at all clear that exposures originating within parties are blocked by the fear of retaliation that might be countered by shielding whistle-blowers. Rather, exposures from within are typically inhibited by fear of the possible damage to one's organisation, a motive that is arguably stronger among party operatives than among corporate employees or public officials for whom whistle-blowing provisions are common in some countries (although not in Hungary). Whistle-blowing protection is probably not then the best means to increase transparency; instead, stricter disclosure rules could make it possible to harness political competition to the cause of transparency.

Both the electoral commissions and the State Audit Office have powers to impose sanctions for irregularities in the parties' conduct. In cases of grave violations of the rules of election, electoral commissions can declare the outcome of a vote null and void. In case of financial irregularities, e.g. violating the spending limit, the SAO may require the party in question to pay a fine of twice the amount by which it exceeded the legal limit. These powers are very rarely used, however, and so far only one minor extra-parliamentary party (the Centrum Party in 2002) has been found in violation of the spending limit and required to pay a fine. Instances involving interim elections of local councilmen, when the vote has been declared void by the relevant electoral commissions, have also been very few. While to date no violation of electoral rules of a kind grave enough to necessitate serious sanctions by the electoral commission (voter fraud, voter suppression or intimidation, etc.) has been reported, the inaction of the SAO is more worrying, since violation of the spending limits is very much in evidence.

The parties' accounts are prepared by their own book-keepers rather than by independent auditors. At least the accounts are submitted to the independent SAO, but for reasons mentioned in the previous section, the SAO's oversight of the parties' finances is inadequate. Accounts are not submitted to the legislature, but the SAO and the National Election Committee both report to Parliament after the elections and the Parliament must vote on the report. The public's right to redress is embodied in the right of every individual to propose a motion to the electoral commissions, which have to deliberate on every such motion. Individuals as well as parties make frequent use of this legal route.

Parties very rarely discuss corruption as an internal problem, i.e. corruption within their own ranks. On the other hand, MPs who become the target of corruption probes are sometimes forced to resign or at least to leave the party's parliamentary caucus. Most parties prohibit individuals who have been convicted of a felony from becoming elected officials or even members.[158] Parties regularly discuss corruption as an external problem, especially the problem of other parties, but their credibility is low in this context and so these efforts are not particularly effective. Since 2002, however, some disclosure rules, e.g. on government contracting, have been strengthened, and asset declarations by MPs were introduced in 2001. These regulations arguably increased public awareness of political corruption, and to that extent may be regarded as successful. There is no indication, however, that these measures have reduced the overall level of corruption.

Relationship to other pillars

In accordance with the Constitution and Hungary's parliamentary system, parties are the key players in forming the political will of the citizens and the key actors in the political process. As such, their activity profoundly affects other pillars, most directly the work of the Parliament and the executive. Indirectly, they affect the Constitutional Court, the judiciary, the ombudsmen, and the prosecutors, since the Parliament, dominated by the parties, elects the constitutional court justices, the chief justice of the Supreme Court, the ombudsmen, the chairmen of the Central Bank and the State Audit Office, and the Prosecutor General. Constitutionally, the parties' interactions with the latter institutions should be restricted to electing their leaders and overseeing their work by hearing their reports, but there are widespread allegations that party leaders try to influence the heads of the of the independent institutions subsequent to their election. Such allegations have been made, for instance, in connection with the former chairman of the Hungarian Central Bank, who was nominated by the conservative prime minister in 2001 and whose decisions have frequently been at odds with the policies of the centre-left coalition governing since 2002.

In general, there is no reason to recommend that parties engage more actively with other institutions. Usually, the independence of institutions like the Constitutional Court or the judiciary is under most threat from the influence of the parties. More interaction with the parties is therefore not desirable, except, of course, in the case of the legislative and the executive, which are dominated by parties.

Electoral Commissions

Role(s) of institution as pillar of NIS

According to the Act C of 1997 on Electoral Procedure, the Hungarian electoral commission, whose prime responsibility is to determine the results of the elections, to ensure the fairness of the elections, to enforce impartiality and, when necessary, to restore the legal order of the elections, consists of a multi-level system of election committees. These committees are as follows: ballot-counting committees, local election committees, parliamentary single-mandate constituency election committees, regional election committees and the National Election Committee (NEC).[159] The law declares that these committees are independent bodies subject to nothing but the law.[160] Their independence is guaranteed by several legal provisions.

The electoral committees are composed of two types of members. Elected members are independent, while members delegated by the organisations putting forward candidates or setting up a list in the constituency, or by an independent candidate (known as 'commissioned members' – with one member commissioned by each nominating organisation/candidate and in the NEC one member by each parliamentary faction) are not independent. Some of the guarantees of independence are different as applied to the two types of member, while some rules are applicable to both. The Act does not provide for the same degree of impartiality on the part of the

commissioned members since these expressly represent the interests of their parties and candidates. Balance in the decisions of the committees is ensured by the fact that each candidate and nominating organisation has one delegate.

The elected members of the ballot-counting committee and the local election committee are elected by the representative body of the municipality, with the head of the local election office submitting the list of names for approval. The elected members of the parliamentary single-mandate constituency election committees and the regional election committees are elected by the metropolitan, county general assembly, likewise with the head of the local election office submitting the list of names for approval. The elected members of the NEC are elected by the Parliament, with the Minister of the Interior submitting the names for approval while taking the parties' recommendations into consideration.[161] In practice, however, these recommendations are ineffective as a means to ensure balance on the NEC, since the Parliament elects the candidates nominated by the minister by simple majority of one-half of the votes.[162] This method of the selection of the members secures a majority for the government in the NEC, although the presence of the commissioned members may provide some counterweight.

During the term of its operation, an election committee is deemed to be a public authority and its members public officials.[163] The members of the election committee are exempted from performing work stipulated by law on the day following voting, and are entitled to receive average wages for this period to be paid by the employer.[164] All members of the election committee take an oath,[165] in which they swear to comply with and cause others to comply with the provisions of the Constitution and the legal rules pertaining to elections, referendums and popular initiatives, and to fulfil their duties and charges to the best of their ability, conscientiously for the benefit of the country.[166]

The guarantees of the independence of the electoral committees include rules on conflict of interest. These rules are stricter in the case of elected members than for commissioned members. (For more details see 'Integrity mechanisms'.)

The rights and obligations of the elected and commissioned members are identical, with the exception that commissioned members are paid while delegated members are not entitled to any fee.[167] The elected members are not revocable; the commissioned members' commission may be withdrawn.[168] The behaviour of the commissioned members is not prescribed by the law although they are bound by the oath, but one can say that given the nomination procedure they tend to represent the interests of the nominating organisation. Problems can therefore arise if commissioned members disclose information on the work of the committees or transfer confidential data when they are not entitled to do so. This was the case when one of the commissioned members of the NEC provided information to his political party on the identity of the initiator of a referendum. The Data Protection Commissioner ruled that in that phase of the process concerned, the disclosure of the personal data of the initiator had been illegal.[169]

The independence of the election committees is guaranteed by organisational rules. The chairman and its deputy are elected from the elected members,[170] and so commissioned members cannot be elected for these posts. These elections (like all the decisions of the committees) are made by simple majority of more than half the votes.[171] The political influence on the elected members as mentioned above may have an indirect effect on the election of the chairman, since the chairmen will be elected by members with the same political background.

As a further guarantee of independence, the election committees work openly. The operation and activity of election committees as well as the data available to election committees, excluding statutory exceptions, are in the public realm. The openness of the electoral procedure may not infringe the secrecy of the election, or personal rights and duties related to the protection of personal data.[172] (For more details on transparency see below.)

Additional guarantees of the independence and fairness of the functioning of the election committees can be found in the system of levels of appeal procedure and judicial control by independent courts and the Constitutional Court. (See 'Accountability'.)

To sum up, the only weakness of the guarantees of independence is the election method of the elected members. The impartiality of the NEC has recently been questioned by the present opposition parties in relation to its powers and actions in the initiation of referendums.

One of the principles of the election procedure is that every participant has an obligation to safeguard the fairness of elections and to prevent electoral frauds.[173] In this regard, the election committees' prime responsibility is to determine the results of the elections, to ensure the fairness of the elections, to enforce impartiality and, when necessary, to restore the legal order of the elections.[174] They fulfil this obligation by interpreting the law and reacting to the practice of other

participants; they also issue guidelines in order to develop a uniform interpretation of rules of law and uniform legal practice regarding elections. No appeal is possible against the guidelines, which are published in the Official Gazette of Hungary.[175] Some examples of the guidelines on fairness of elections include the following: the members of the ballot-counting committees are not allowed to use mobile phones and cameras when engaged in their work;[176] it is against the law to identify those who have not presented themselves at the polling station before polling closes;[177] it is unlawful promote mobile ballot-box voting[178] etc.

Resources/structure

Each committee of the multi-level system consists of independent, elected and commissioned members; only in the case of elected members is the number determined by the law. There are 3 elected members in the ballot-counting committees, 3 or 5 in the local election committees, 3 in the parliamentary single-mandate constituency election committees, 3 in the regional election committees, and 5 in the NEC. The number of commissioned members depends on the number of candidates and nominating organisations. At the last parliamentary and municipal elections there were overall approximately 60,000 members of election committees. The number of commissioned members from nominating organisations on the ballot-counting committees was 32,000.[179]

An election office operates alongside each election committee other than ballot-counting committees, and at embassies abroad where polling is held. At the ballot-counting committees, one member of the local election office acts as the keeper of the minutes.[180] Election offices are bodies fulfilling the state's responsibilities in the preparation, organisation and conduct of the elections; they provide voters, candidates and nominating organisations with information free of any party bias, handle electoral data, provide technical conditions, and check compliance with statutory conditions and professional rules.[181] Only public officials and civil servants may be delegated to the election office as members.[182] Their impartiality and independence is guaranteed partly by the general rules applying to their professional position,[183] and partly by the special provisions of the Act on the Electoral Procedure. Representatives, chairmen of county general assemblies, mayors, members of election committees, persons running as candidates in the constituency and their kin, or members of nominating organisations putting forward candidates in the constituency may not be members of an election office.[184] The head of the local and the parliamentary single-mandate constituency election office is the competent clerk; the head of the regional election office is the county/capital-clerk. The head of the election office at embassies abroad must be a person delegated by the head of the National Election Office for an indefinite period.[185] The members of the election office must be persons delegated by the head of the election office, the head and members of the National Election Office must be persons delegated by the Minister of the Interior, and the members of election offices at foreign representations must be persons delegated by the head of the National Election Office for an indefinite period.[186] At the last parliamentary and municipal elections around 30,000 public officials and civil servants worked at election offices.[187]

The expenses involved in the implementation of the state's responsibilities in the preparation and conduct of elections are covered from the central budget to the level defined by Parliament. The costs are determined in the chapter of the state budget overseen by the minister of the interior. The minister is authorised to determine by decree the normative budgets, items, accounting and internal supervision order of the election costs.[188] The election committees have no duties concerning the budget. According to the head of the National Election Office, the committees have no access to off-the-books funds.[189] In 2006 the Parliament reserved 6.51 billion HUF (25 million EUR) for these purposes,[190] and this sum was distributed by the minister.[191] (For the reporting on clearing of accounts see 'Accountability'.)

Accountability

Since the electoral committees are also mutually independent, the committees on a higher level cannot instruct or call to account the committees on a lower level. The only relation between them is the appeals procedure, in which an election committee acting as a body of the second instance either sustains or changes a resolution contested by an appeal.[192]

Applications for judicial review of an election committee's resolution of the second instance, or of a resolution of the NEC may be submitted by any voter, candidate, nominating organisation, or legal person concerned in the case.[193] The court may sustain the resolution contested, or change it,[194] but the courts rarely uphold the appeals. The time limits for judicial review are short, and in the

rare cases where appeals are upheld the courts base their decisions mainly on the violation of rules of procedure rather with reference to the abuse of the discretionary jurisdiction of the election committees, although this possibility is open to them. There is no further appeal against the ruling of the court. Appeals against any decision of the NEC are judged by the Constitutional Court, which can either confirm or annul the resolution of the NEC and instruct it to institute a new procedure.[195] There have been several cases of this kind recently, and the political parties have tried to draw these two bodies into their political debate.

The Parliament oversees electoral procedures through reports presented by the relevant bodies. The chairman of the NEC reports on elections and referendums,[196] and the minister of the interior reports on the organisation and completion of the state's tasks related to elections and national referendums.[197] The State Audit Office informs the Parliament on the use of funds.[198] These reports are the subject of public debates in the Parliament. The reports are accepted by simple majority in a parliamentary vote, but rejection has no legal consequences, as in other cases when a report is addressed to Parliament for approval. Electoral legislation contains no provisions obliging election committees to report to any body other than the NEC.

According to the Act, the election committees are citizens' independent bodies.[199] They are public bodies, and their members are partly commissioned by political parties and other nominating organisations. Therefore specific obligations on public consultation are not prescribed by the law, and there would not be point in such obligations.

Integrity mechanisms

The rules relating to the elected members of electoral committees are stricter than those relating to the commissioned members. The President of the Republic, state leaders, heads of administrative offices, representatives, chairmen of county general assemblies, mayors, county/capital-clerks, members of election offices, civil servants of administrative bodies operating in the area of competence of an election committee, or candidates, cannot be members of an election committee.[200] An election committee that may be placed in a decision-making or decision-reviewing relation with another in appeal procedure cannot have as member anyone in a kinship relation to a member of the other committee.[201] In addition, neither members of organisations nominating candidates in the constituency, nor kin of candidates running in the constituency may be elected members of an election committee.[202] The rule on conflict of interest concerning kinship (including cousins) does not apply to commissioned members, since they are not required to be impartial. As has already been stated above, the balanced nature and the impartiality of the decisions of the committees is ensured by the fact that each candidate and the nominating organisation have one delegate.

There are no specific rules on gifts and hospitality. The relevant statutory provisions of the Criminal Code may be applied to the misconduct of members of electoral committees (crimes against the proper order of elections, referendum and popular initiative, abuse of authority, bribery).[203]

The Act does not stipulate any restrictions on post-employment.

To sum up, the rules of conflict of interest fulfil the traditional requirements of the division of power. There are no special restrictions on gifts and hospitality, but any sort of bribery is punished with the strictest sanctions under criminal law. Nevertheless it is worth considering introducing an obligation to make property declarations. The rules over conflict of interest work as a kind of post-employment restriction, since actual candidates cannot be the members of the committees, and so the members cannot become representatives, mayors, etc. Given the sheer number of members of electoral committees, stricter regulation would be irrational.

Transparency

As a general rule, the operation and activity of election committees as well as the data available to election committees, except for the statutory exceptions, are public. The public nature of the electoral procedure may not infringe the secrecy of the election, personal rights and rights related to the protection of personal data.[204] The NEC invites the public to its meetings via its web-site.[205] Minutes are kept of the meetings of the election committee and minority opinions, together with their supporting reasons must be recorded. One copy of the minutes shall be handed over by the election committee free of charge to the representatives of each candidate on request.[206] The Act prescribes special obligations to publish some facts, data and documents. It should be added that

the constitutional right to access to information of public interest is a well guaranteed right in Hungary, with a very strong proactive freedom of information legislations[207] so that even without these specific rules the general prescriptions would achieve the same results.

Some regulations making publication of documents obligatory also define the prescribed media of publication, but in other cases the Act does not define the method of publication.

The NEC has to publish the final results of the elections aggregated nationally in the Official Gazette of Hungary,[208] together with the guidelines issued in order to develop a uniform interpretation of rules of law and uniform legal practice,[209] and rulings on the authentication of signature sheet or the particular question of the referendum[210] as well as the results of the referendum.[211] It should be noted, however, that the hard copy of the Official Gazette of Hungary is not easily obtainable. Issues of the Gazette can be downloaded from the internet, but its web-site[212] is not user-friendly.

The Act also lays down an obligation of publication through the press: the NEC publishes the results of the election of Members of Parliament and the European Parliament in the main newspapers.[213]

The Act stipulates an obligation to publish data on notification regarding linking lists, the order of the lists, and the distribution of fragmentary votes of joint candidates and joint regional lists, but does not prescribes how the information must be published.[214] These data as well as all data mentioned above (results, standpoints, resolutions) are also published on the web-site of the NEC.

The election committee has an obligation to publish its resolutions, excluding personal data.[215] The Act does not, however, prescribe the mode of publication of resolutions not mentioned above (e.g. resolutions of election committees other than those of the NEC.) Some of them can be found on the web-sites of the local governments, but at present there is no binding rule on publishing resolutions online. The parts of the Electronic Freedom of Information Act relating to local authorities will come into force on 1 July 2008. It will improve uniformity in this field: Local authorities will be obliged to publish all their decisions on the Internet. Overall, these transparency and publicity provisions are sufficient.

Complaints/enforcement mechanisms

In the Hungarian legal system there are no whistle-blowing provisions.

Fulfilling their prime function, i.e. to determine the results of the elections, to ensure the fairness of the elections, to enforce impartiality and, when necessary, to restore the legal order of the elections, election committees often proceed in cases following complaints lodged by citizens. The committees cannot make a complaint of this kind ex officio, but this is not a serious deficiency since anybody may lodge complaints by alleging the infringement of any of the rules of law applying to elections or the basic principles of elections and the electoral procedure, without having to justify their interest. The deadline for the submission of complaints is short; they have to be received by the committee at the latest within three days of the date of the alleged violation.[216] The complaint may be withdrawn before the election committee reaches a decision, but in this case the election committee may still continue the procedure ex officio.[217]

The complaints must contain the evidence of the violation.[218] The committees have no powers of investigation, and the burden of proof is on the citizen lodging a complaint. On the other hand, the election committees have strong powers of injunction. If they sustain the complaint, they establish the fact of violation, bar the violator from further breach of he rules, and annul the election procedure or the part thereof affected by the violation, and provide for it to be repeated.[219] According to the parliamentary reports of the NEC, the latter power of injunction is not exercised in practice. This suggests that other types of sanctions may be necessary.

On the question of vote-buying the NEC has issued guidelines to prevent the abuse known as chain voting (a voter additionally steals a blank ballot, fills it out, gives it to the next voter, who also steals a blank ballot and so on). These state that the ballot papers must not be taken out of the polling station. On the other hand, the guidelines are not binding and cannot be enforced, and cases of chain-voting are hard to prove.

Relationship to other pillars

The election committees have a key role in ensuring the fairness of elections, enforcing impartiality and preventing electoral frauds. As independent civic bodies, they secure the democratic

framework of the election of legitimate representative bodies. In the fulfilment of this role, the NEC co-operates with executive government bodies, and the other election committees do so with local government authorities through the election offices. Ties to the political parties and legislature are close, mainly as a result of the selection system of the members of the committees. The judiciary pillar and the Constitutional Court are closely linked to the electoral committees through their role as potential legal remedy against the decisions made by the committees.

Supreme Audit Institution

Roles of institution as a pillar of the NIS

The State Audit Office, one of the most significant elements of the democratic system, was established by the Act XXXVIII of 1989. The legal status of the SAO is regulated by the Constitution and the Act on the State Audit Office. The SAO is the supreme audit organisation of the state. It is only subject to the Parliament and the laws of the state.

The basic objective of the SAO is to ensure the safe, balanced and effective operation of the state budget, to support its development and to strengthen the transparency of public finance processes and the accountability of public funds and state property management. The annual audit plan, including audit tasks, approaches and methods, as well as the frequency of audits are determined by the president of the SAO. The SAO is required to perform audits on the basis of a decision of Parliament.[220] It may carry out an audit at the government's request but is not required to do so. Due to limited human resources the audits imposed by the chair are not as frequent as is necessary. Therefore, a legal guarantee should dictate the frequency of audits.

The president and vice-presidents of the SAO are nominated by a Parliamentary Committee of eight MPs, heard by different Parliamentary Committees and elected by the Parliament. In order to ensure against political influence of the governing parties, a two-thirds majority is required for election of SAO officials. The independence of the SAO is strengthened by the fact that its president and vice-presidents are elected for 12 years. The possibility of re-election should be revised, as it provides incentives to secure the support of parliamentary parties for re-election.

Strict rules apply to the removal of the president and vice-presidents of the SAO. The term of office can end after the 12-year term, at the age of 70, upon resignation, with a statement of conflict of interest, upon dismissal, exclusion or death. Dismissal may occur if the president or a vice-president is not capable of performing his/her duties. Dismissal must be reported to the speaker of the Parliament in written form. The Parliament ceases the term of office with exclusion if the president or a vice-president does not fulfil his/her duties or is not capable of performing his/her duties or has committed a crime decided by final judgement in court, or has become unworthy to serve in the position in any other way.

By law the SAO must audit all public finances of the state, i.e. the central budget, the Social Security Fund, separate State Funds and the financial management of local governments.[221] The SAO carries out its audits on the basis of legality, expediency and effectiveness. SAO audits can be categorised into three main groups: regularity audits, performance audits and comprehensive audits. The regularity audit aims at bodies and their operations, activities, programmes, the related financial processes, accounting and their statements. Its objective is to judge legality and regularity. The aim of the performance audit is to state whether bodies have executed their projects and activities in an economical, effective and efficient manner. The comprehensive audit evaluates the organisational framework, financial and human resources of state obligations and the extent of their harmonisation with the system. It also pays special attention to the operation of internal control systems and to the investigation of their risks.

To date, most audits have been regularity audits. Since procurements are rarely audited for expediency or effectiveness, some procurement has the appearance of legality (no faults may be found on legal grounds) when in fact public funds are flowing to private interests due to the lack of regulation. The largest task of the SAO is the audit of the execution of the central budget, which absorbs about 25 per cent of the annual audit capacity of the SAO.

According to the SAO's Audit Manual, concerned parties receive prior notice of the start of on-the-spot audits.[222] This may allow for modification of bookings and records. Such a system is not appropriate to eliminate the flow of public money for private purposes. The possible advantages of prior notice (e.g. its easier execution) rarely compensate for the fact that abuses and waste of public funds can rarely be uncovered. Accordingly, prior notice should be prohibited insurance

should be made of documents at the start of the audit, making subsequent manipulation of records impossible.

The SAO is an audit organisation of the Parliament, which makes parliamentary decisions and provides for audit of the executive for the legislation.[223] This means that the SAO carries out an audit function but cannot influence budget calculations directly. Its influence occurs through the fact that legislators can use the conclusions drawn from the audit results in formulation of the budget for the following year.

The head of the SAO 'shall countersign the agreements related to the credits raised by the budget'. The counter-signature proves that the credit meets the requirements of law. However, constitutionally this is problematic, as with this counter-signature the head of the SAO assumes a certain responsibility and thus the auditing function is questioned.[224]

In order to audit public funds and ensure their efficient use, the SAO provides opinions, proposals and recommendations to the Parliament, the government and the management of the audited body in its audit reports to avoid any mistakes or offence. When investigating offences, mistakes or negligence the SAO makes proposals on laws and regulations, develops internal regulation systems, prepares plans, appeals to legal state restoration, initiates the re-payment of irregularly used funds and the statement of personal responsibility of those who committed offences, may propose the initiation of Public Procurement Arbitration Committee proceedings, and in cases of suspicion of crime it submits to the investigating authority a statement supporting the suspicion. Only cases supported by very sound evidence are prosecuted therefore the number of statements is relatively low (13, 5, 14 cases in 2004, 2005 and 2006, respectively). Most of the prosecutions initiated by the SAO are followed by investigations. The SAO may block funds in cases of waste, and it may suspend the use of funds for budget financing investments in order to avoid damages resulting from serious offences against the law.

However, the SAO does not have the authority to apply sanctions and cannot directly impose its proposals and their implementation. Therefore, audit reports and proposals are used only incrementally. Their effects are nevertheless perceived to a certain extent; about 30 laws and legal modifications were passed between 2002 and 2005 that stemmed from SAO audits.

Structure and resources

According to the law, the organisation of the SAO consists of a president, vice-presidents, a secretary general, senior officials, auditors, civil servants with at least secondary education, administrators and other employees.[225]

In determining the organisation of the SAO, the president plays a key role. The President makes a proposal on the organisational structure to the Parliament and approves the organisational and operational rules of the SAO. In addition, s/he provides for the execution of the annual audit plan of the SAO and its ad hoc controls. The secretary general of the SAO, under the direction of the president and in compliance with legislation and professional requirements, governs the organisational structure. Two auditing directorates function within the SAO: one audits the central state budget, and the other manages municipalities and endowments. They are headed by director-generals.

The SAO has 600 employees. The employees must be highly qualified and have significant professional experience.[226] Among them, 80 per cent have an academic degree, one-third have multiple degrees and one-third have passed a state language exam in at least one foreign language of high priority (English, French or German).

Special rules govern the approval of the SAO budget. The SAO prepares its own budget chapter and its proposal for budget implementation. It is proposed as an independent chapter of the state budget and the bill of annual accounts to the Parliament by the government. The annual budget of the State Audit Office is approved by the Parliament. The Parliament approved HUF 7,719.6 million (about EUR 308.8 million) for the SAO to perform its tasks in 2006, HUF 7,699.6 million (about EUR 308 million) of which was granted in the form of subsidies and HUF 20 million (about EUR 0.8 million) was provided from the SAO's own revenues.

SAO is able to allocate its budget independently. Within the budgetary appropriations the SAO has the authority to purchase and dispose of equipment.

The remuneration of employees is high compared to others in the public sector. The president of the SAO is entitled to a remuneration equal to that of a minister. The vice-presidents are entitled to a remuneration equal to 85 per cent of the ministerial remuneration. SAO employees are

entitled to two months' remuneration in each calendar year as a special allowance. The president of the SAO may increase the basic remuneration of an auditor by a maximum of 40 per cent, or may reduce it by a maximum of 20 per cent, depending upon performance.

Legal provisions allow SAO auditors to enter the premises of any audited organisation, to request and seize deeds and other documents and to request information verbally or in writing from any employee of the organisation. There is no restriction on their access to information necessary to conduct audits. The SAO may investigate the trail of utilisation of public funds and property up to the end user and may obtain the information required from any persons or organisations irrespective of whether they are in the public or private sectors. Auditors may have access to documents even if they contain state secrets, service secrets or any other kind of secret and may make copies and extracts thereof. Auditors may also perform on-the-spot audits.

Experts have criticised the narrow interpretation the SAO has made of its own authority in the case of examination of party financing. Critics have suggested that the SAO merely wants to avoid conflicts with powerful parties. In principle, the risk aversion of the SAO seems unreasonable; the law provides for unusually strong guarantees precisely in order to protect SAO independence. (See also 'Political Parties').

Accountability

Since 2004 the financial management of the SAO has been audited by an independent chartered accountant mandated by the speaker of the National Assembly following a tender procedure.

As the SAO is primarily the auditing organisation for the public administration (see below), it cannot be directed by the executive nor does the administration have the right of supervision. As the SAO is not an official authority there is no legal remedy against audit opinions or the audit recommendations of SAO reports. This is especially problematic in case of suppliers over whom the audit is extended; thus, they may be excluded from public procurement.

SAO has great freedom of reporting. It presents its annual report and audit reports to the Parliament and makes all audit reports public. Only a few limitations are imposed on the content of their reports in terms of classified information (state or business secrets). The SAO pursues a wide range of activity to spread information, including its website and 'open days' directly accessible electronically, as well as through the publishing of its reports and other studies. The SAO maintains an Internet forum and consulting hours for making direct contacts with citizens; it also provides an opportunity for feedback from the public via the Internet through a customer satisfaction form and a central e-mail address. Press conferences are organised after the publication of reports of greater relevance such as the reports on the state budget and on the closing accounts.

Quality control takes place at decisive points in the work process. Managerial supervision on at least two levels takes place. To promote this, an integrated quality management system is being developed and built into the operation of the SAO. The independent quality assurance review will certify the findings and conclusions of draft reports, the audit opinion and the professional and legal grounding of recommendations.[227]

Integrity mechanisms

Persons who were members of the government or held any elected senior position in the national (central) organisation of any political party during the previous four years may not be nominated as president or vice-president of the SAO.[228] This regulation should be extended to ensure that no one should be the head of the SAO who had a managerial position in any body that might be audited by the SAO. The only justified exception should be the heads of 'supplier' companies, for expediency.

One may not serve as president, vice-president, secretary general, senior official or auditor of the State Audit Office at the same time as carrying out functions or assignments for any entities that receive a budgetary subsidy, nor may they be members of Parliament or hold senior positions in business federations. The president, vice-presidents, secretary general, senior officials and auditors of the SAO may not hold any commission or gainful employment and may not accept remuneration except for scientific, educational, artistic, proof-reading and editorial activities and activities under copyright protection. The president, vice-presidents, secretary general, senior officials and auditors cannot be close relatives of one another, nor of the members of the Government.[229] The employees of the SAO cannot be involved in the management and activities of

the audited body. The persons performing the audit may not be members of the management bodies.

According to the rules on the members of Parliament, the president and the vice-presidents of the SAO must submit their asset declarations at the time of their election and once a year thereafter.

According to the code of ethics of the SAO, auditors may not request or accept any benefits or advantages that might influence their impartiality or their procedures. They may not use their office to gain unjustified advantages for themselves or others, or to cause damage to others.

The current regulations do not comprise post-employment restrictions or obligations for confidentiality after the end of the employee's legal relation. According to experience, the turnover in employees is very low. Post-employment regulation is nevertheless necessary to protect confidential information that auditors come into contact with.

Transparency

The Act on the SAO does not require submission of audit reports to the Public Accounts Committee or any other parliamentary committee. However, the Public Accounts Committee and other parliamentary committees regularly put the most important audit reports of the SAO (e.g. opinions on the state budget, reports on closing accounts, audits of the operations of the Hungarian Privatisation and State Holding Company etc.) on their agendas. The annual report of the SAO is debated and accepted by the Parliament by a formal resolution of Parliament.

The most effective method to make audit reports public is their publication on the www.asz.hu homepage, where all audit reports of the SAO are uploaded.

Complaints/enforcement mechanisms

If during the audit the SAO comes to suspect a criminal offence, it must notify the competent authority (police or public prosecutors' office) of the findings without delay. In the case of other offences the SAO may initiate remedy, which is validated respectively. The SAO occasionally initiates disciplinary procedures at the audited organisations in the alignment of audits. Pursuant to the Act on Public Procurement, the SAO is authorised to initiate review procedures for the violation of public procurement regulations.

The impact of SAO audits greatly depends on the changes that are made to legal regulations by the Parliament, the government, the ministries and local governments as a result of the findings and recommendations, as well as on measures initiated by those who have been audited. The SAO has no more serious system of penalties for audited organs. It would be advisable to change the recommendations of the SAO to be obligations, and in the case of the private sector to regulate the sanction of public procurement exclusion. According to the information received by the SAO from entities audited, nearly 80 per cent of the recommendations addressed to the ministries were either implemented or are being implemented. Since regularity audits are the most frequent (see above) implementation of recommendations does not necessarily mean structural changes.

The annual reports of the SAO inform the public about the increasing numbers of criminal procedures it initiates. Since 1990 the Hungarian SAO started criminal procedures in several cases, mainly due to suspicion of infringement of accounting rules.

According to the law, complaints, proposals, requests and assistance requested by other authorities submitted to the SAO must be processed by the SAO.

The number of announcements shows a growing trend for citizens, civil organisations, natural or legal persons to request an SAO procedure (usually an audit), in addition to legal information for the resolution of their problems. In such cases the SAO provides theoretical assistance to citizens in need, taking into account the scope of authority and possibilities of the SAO.

Relationship to other pillars

The SAO is an independent audit institution, which is exclusively subordinate to the Parliament as its financial-economic auditing organisation. The SAO is only subject to the Parliament and the state laws. The SAO is independent from the government, since currently two-thirds of MPs are required to vote to adopt or modify the Act on the SAO.

Judiciary

Roles of institution as a pillar of the NIS

Article 50 of the Constitution provides for judicial independence both in procedural as well as in institutional terms. Judges are independent and answerable only to the law. Act LXVI of 1997 on the Organisation and Administration of Courts clearly states that judges are independent. Their primary responsibility is the application of law in line with their conviction. They shall not be influenced or instructed in their judgments. Judicial independence is also expressed by the right to a fair trial, i.e. a right enshrined by the Constitution according to which, in the determination of his/her civil rights and obligations or of any criminal charge against him/her, everyone is entitled to a fair and public hearing within a reasonable period of time by an independent and impartial tribunal established by law. The application of this provision of the Constitution has on many occasions been examined by the Constitutional Court.

One of the areas with the greatest negative impact on the independence and impartiality of the judiciary is the system of recruitment. It is a common belief among law graduates that, due to the very large number of applications each year, connections facilitate a judicial career. This is suggested by the fact that only one-third of successful candidates among legal clerks have received a diploma marked summa cum laude. Usually no other objective criterion is specified for filling positions other than the eligibility criteria prescribed by law. Since these criteria are certainly insufficient to enable completely equal selection from among the eligible candidates, the general view is that as long as eligible candidates with merits are turned down, some further criteria should be made public in advance so as to clarify the choice of the president or of the selection board. While there are growing efforts to centralise recruitment of legal clerks, thus discouraging recruitment that is not based on merit, a new system – already adopted by the National Judicial Council regulation No. 5/2006 – will be introduced only at a later point in time.

Further deficiencies relate to nomination of judges. Act LXVII of 1997 on the Legal Status and Remuneration of Judges allows for applications to be submitted by those who have not previously worked for the judiciary. However, judges are generally selected from among those candidates who previously served as clerks at the court (or another court), and external candidates are at a serious disadvantage, whatever their professional background. The system is currently structured in a way that makes it almost impossible to become a judge without serving as a legal clerk at the court after graduation from law school.

According to Act LXVII of 1997 on the Legal Status and Remuneration of Judges, as a rule, judges are selected through an open application procedure organised by the president of the county court (for local and county courts), the president of the regional appellate court or the president of the Supreme Court. By law, the invitation for applications must specify all requirements for the position. In practice, notices do not provide details on what is expected from successful candidates; instead, they usually contain the eligibility criteria prescribed by law.

Currently the president of the relevant court interviews applicants for all positions and, where appropriate, consults members of the judiciary. Recommendations made by the judiciary, however, are not binding on the president. Successful candidates also must take an aptitude test that includes medical, physical and psychological examinations. These cover all health aspects that may impair the judge's performance; they also assess intellectual capacity and personal abilities. While such a test is certainly necessary, as most candidates pass the test, it does not strengthen objective selection. Thus, the decision may be made solely by the president of the relevant court without setting objective criteria in advance or taking into account the advisory opinion.

All notices of recruitment for leading positions must be made public as prescribed by law. This rule is generally complied with. Other offers are made public only if the president of the relevant court wishes. In some cases, this has led to serious concerns about the transparency of recruitment and equal opportunities.

After the decision of the president of the relevant court to nominate the candidates, judges are appointed (and if necessary, recalled) by the president of the Republic. Article 57 of Act LXVII of 1997 on the Legal Status and Remuneration of Judges specifies the grounds for removal from office. Those related to the actions of the judge are as follows: inability to perform the functions of a judge for an extended period of time, final criminal conviction involving imprisonment and removal as a result of a disciplinary procedure.

If there is any indication that a judge is unable to function as a judge for an extended period of time, the president of the court makes a written request for the judge to resign from office within

30 days. This notice specifies the reasons for the judge's inability to perform. If the judge refuses to resign and the case is related to health, the judge is required to take a medical examination and further steps are taken accordingly. If s/he is unsuitable for other reasons, a special evaluation is conducted.

Judges are first appointed to a three-year term; subsequently they are appointed for an indefinite term. Judges are thus protected from removal by law. There is a possibility to transfer a judge to another court without his/her consent once in a three-year period and for a maximum of one year, if it serves the interest of the justice system. While this might be seen as a source of potential risk for influence, such practice would be considered to be a misuse of powers that seldom occurs.

Judges seldom receive training specifically focusing on the prosecution of corruption cases. Such training opportunities have been available only to few judges and at irregular intervals. This lack of training has been criticised by international organisations, including GRECO of the Council of Europe. The Hungarian Judicial Academy was founded in 2006 as a training centre for the judiciary. The Judicial Academy intends to provide regular training in the future.

Sufficient case law exists in relation to corruption. All decisions are accessible by judges through their internal computer system. Furthermore, since July 2007, under Freedom of Electronic Information Act, all judicial decisions by the regional appellate courts and the Supreme Court must be made publicly available by the National Judiciary Council (NJC).

Structure/Resources

The institutional framework of the judiciary is essentially described in the Constitution. The chapter entitled 'Judiciary' provides for the establishment of four levels: (1) the Supreme Court of the Republic of Hungary, (2) the regional appellate courts (located in five major cities of Hungary), (3) the Metropolitan Court of Budapest and the 19 county courts, and (4) local courts. The Constitution also provides for special tribunals for labour affairs. Specific and detailed rules regarding the structure and the administration are provided by Act LXVI of 1997 on the Organisation and Administration of Courts.

An act of 8 July 1997 created the National Judicial Council, which took over the Ministry of Justice's responsibilities for the administration of the courts. This has been seen as a cornerstone of institutional reform for judicial independence since 1990. Although the ministry retains certain policy-setting powers such as the right to propose new legislation to regulate the court system, management of the courts is under the sole responsibility of the NJC. The NJC is responsible for, inter alia, nominating judges, deciding on promotions, drafting the courts' budget proposal, initiating legislative proposals on the work of the courts and regulating and supervising court operations. The powers of the NJC also include providing training to judges. The NJC ensures the impartiality of judges, functions as the central administrative body of the courts and supervises the administrative activities of the presidents of the regional appellate courts and of the county courts.

The NJC is chaired by the president of the Supreme Court, who is elected by qualified majority by the MPs. The National Judicial Council is composed of nine judges elected indirectly by plenary sessions of judges. The NJC also has five non-judicial members: the Minister of Justice, the General Prosecutor, two delegates sent by two parliamentary committees and the president of the Hungarian Bar Association.

The administration of the judiciary is served by the Office of the National Judicial Council. This office is staffed with approximately 130 personnel, many of whom are judges themselves. This has been considered one of the drawbacks of the new administration, as the Ministry of Justice was able to provide the same service with only a fraction of that amount of staff. The administration is further supported by self-government bodies representing judges.

In the criminal justice system (where corruption cases are handled), cases whose adjudication is particularly difficult, either because of the facts or laws involved, are first tried in county courts. Appeals in these cases are heard by the regional appellate courts; where a second appeal is allowed, the Supreme Court decides. Local courts decide all other cases, and appeals in those cases go to the county courts; where a second appeal is allowed, regional appellate courts decide. Extraordinary requests for legal remedies, i.e., procedures other than appeals, are dealt with by the regional appellate courts or by the Supreme Court.

The Supreme Court ensures the uniform application of the law, mainly through the so-called legal uniformity procedure. Its decisions are binding on all courts. Within one county or region, the decisions of the courts of second instance have certain informal value of 'precedent' while the courts of first instance take them into account to avoid overruling. Strictly speaking, there is no

system of legal precedent in Hungary. Since the establishment of the regional appellate courts, in practice the Supreme Court's ability to ensure legal uniformity through decisions handed down in the final instance has considerably decreased. This is due to the fact that only a fraction of extraordinary legal remedy procedures and appeals reach that level.

The Supreme Court has a staff of 329, 81 of whom are judges, assisted by 10 legal clerks. Judges are assigned to the criminal, civil or administrative collegium. The Metropolitan Regional Appellate Court has 85 judges, while the others operating in major cities only have 15-25 judges in office. Other courts vary according to the population in the area of competence. In some local courts only two or three judges deal with criminal cases; this number in itself might increase the risk of outside influence in a criminal procedure. The annual budget of the judiciary for 2007 is as follows: 70,280.3 million HUF (281.1 million EUR) is planned for expenses, of which 5,284.7 million HUF is covered by the judiciary's own income (i.e. income occurring from financial penalties that is collected by the courts) and a further 64,995.6 million HUF is covered by the state.

Parliament votes annually on the judicial budget as part of the state budget. The Act on the Organisation and Administration of Courts states that court financing shall be provided in a separate chapter of the central state budget. During the process of the preparation of the state budget bill, the National Judicial Council negotiates the sum required for the functioning of the judiciary before submitting their official 'budget proposal' to the government. The government includes this proposal in the state budget bill every year and presents it to Parliament. Expenditure is monitored by the State Audit Office. The SAO intends to conduct a comprehensive audit of the financial management of courts, according to its agenda of 2008-2009. The judiciary has no access to off-the-books funds.

Accountability

Accountability rules are defined in Act LXVI of 1997 on the Organisation and Administration of Courts and Act LXVII of 1997 on the Legal Status and Remuneration of Judges.

The performance of judges is evaluated at regular intervals under the conditions and for the reasons specified by law. The evaluation shall include assessment of the application of material, procedural laws and the administrative aspects of the activities of a judge. A judge may be rated excellent, competent, or not competent based on the evaluation. The latter rating, however, is not sufficient to remove a judge from office.

The evaluation tends to overestimate the success rate of a judge in terms of statistics, i.e. the number of cases finished. While the length of procedure in itself is an important aspect of justice, judges working in courts of first instance generally complain about the uneven workload, which prevents them from doing their best at their job. It is not uncommon, especially in large cities, for a new judge to receive over 200 files, and any specialised knowledge is not taken into account in assignment of cases. While this is not so much of a problem of independence or impartiality, it is reasonable to presume that such a workload does not help to produce timely judgments or to afford the necessary consideration for each case. The evaluation is therefore seen as a necessary means of assessing personal performance that should focus more on factors other than statistics.

Justifiable criticism related to judicial accountability arises from the fact that the judicial members of the National Judicial Council – which controls the activity of court presidents – are mainly county court presidents themselves. Given that those controlled and those exercising control might be one and the same, true control over the top leaders of the judicial system is questionable.

Improving accountability should include strengthening transparency in internal election processes and giving more power to democratic bodies such as judicial councils. The evaluation process of judges' performance should involve a non-local judge instead of (or in addition to) the head of the relevant court.

Public hearings are one of the essential principles of Hungarian criminal and civil procedure, enshrined by Art. 57 of the Constitution, the Criminal Procedure Act (i.e. Art. 237) and the Civil Procedure Act (i.e. Art. 5). This principle is very much respected in practice.

Integrity mechanisms

The criminal and civil procedural codes provide for conflict of interest regulations.

According to Art. 22 of Act LXVII of 1997 on the Legal Status and Remuneration of Judges, judges may not be members of any political party and may not engage in political activities. Furthermore,

they may not be members of Parliament, representatives of local self-governments or mayors. They may not become members of the government or hold leading positions such as state secretary or state undersecretary in the public service. Judges may not be members of arbitration tribunals.

According to Art. 23 of the same act, judges may not engage in any activity for profit with the exception of scientific, artistic, literary, educational and design activities. Even these activities are limited to cases that do not jeopardize objectivity or impartiality or give the appearance of impropriety, nor may they interfere with a judge's official responsibilities.

Judges may not hold any executive office or membership in the supervisory board of a business association. They may not become members of a business association requiring personal involvement or unlimited liability.

The act provides for a clear obligation to report any conflicts of interest immediately. If the judge wishes to be a candidate in general elections, s/he must inform the president of the court. From that moment, s/he is suspended from office until the results of the elections are made public. If elected, s/he immediately ceases to hold office according to the law.

These rules on conflicts of interest are generally complied with.

In theory, judges are not allowed to accept gifts and hospitality regardless of their value. Under the Criminal Code, such gifts are considered to constitute 'undue advantage'. Thus, accepting such gifts is considered bribery under Art. 250 of the Criminal Code and is punishable by imprisonment for 1 to 5 years. However, while accepting small value gifts is explicitly forbidden by the Criminal Code, it would improve clarity if an ethical code for the judiciary clearly stated the precise steps to follow when such a situation occurs.

The law does not define post-employment restrictions. A former judge may work in any legal or other field, but cannot act as attorney for two years in the court in which s/he was previously a member. The procedural codes also prohibit serving as an attorney in a case in which the person already served as member of the judiciary.

Transparency

Disclosure of assets is compulsory for judges and their family members. Under Act LXVII of 1997 on the Legal Status and Remuneration of Judges, in order to enforce fundamental rights and commitments in an unbiased and objective way, to prevent any form of immoral conduct on the part of public officials and to aid the fight against corruption, judges are required to file their asset declarations. There is an initial procedure for those entering office, and a subsequent obligation to declare assets every three years thereafter, at which time they must update their previous declaration to reflect any change in personal wealth and its sources. While an asset declaration is a condition for becoming a judge, there is no sanction for a family member who refuses to disclose his/her assets. The asset declaration must be submitted to the president of the county court (in the case of local or county court judges), the president of the regional appellate court or the president of the Supreme Court. The asset declaration is not public; the information is only accessible to those permitted by law.

Since July 2007, under Freedom of Electronic Information Act, the National Judiciary Council must make all judicial decisions of the regional appellate courts and the Supreme Court publicly available. The decisions must not contain personal information, but otherwise they must be reproduced in full on the website of the NJC (at http://www.birosag.hu/engine.aspx?page=anonim). Once the database has been built, it will provide all the public with a good possibility to research final decisions. The records of hearings are not public.

Complaints/enforcement

Prosecution of corruption within the judiciary is extremely rare. Only one case, allegedly under investigation, has been launched against a county judge in the recent past.[230] There are no provisions protecting the interests of whistle-blowers as such.

Judges have a right of immunity similar to members of Parliament. This immunity may be suspended by the president of the Republic on the initiative of the president of the NJC, or by Parliament in the case specifically of the president of the Supreme Court.

Judges must give reasons for all their decisions, usually in written form. Detailed rules are prescribed by the criminal procedure act and the civil procedure act. Practice follows what is prescribed by law.

Internal disciplinary proceedings are rarely used. Few cases lead to sanctions and there is no data concerning the misuse of such proceedings. Those sanctions that have been applied are mainly due to non-compliance with the terms prescribed by law, such as delays in writing and signing of decisions due to personal negligence.

Effective mechanisms protect witnesses in criminal procedures, as defined by the criminal procedure act and a specific act and other regulations.[231] These mechanisms include secrecy of personal data of the witnesses, closed hearings, hearings through audio or video network, etc. Act LXXXV of 2001 established the Protection Programme for persons participating in the criminal procedure and those assisting criminal justice. Persons eligible include witnesses as well as judges. While special protection is available for the judiciary, this type of protection is not often requested.

Access to justice for citizens is reasonably facilitated. Procedural fees for a court hearing are generally not so high as to represent a significant burden. The costs of the criminal procedure are entirely paid by the state or by the accused, depending on the outcome of the proceedings.

Anyone may report cases of corruption or any other offences to the police free of charge, even if his or her own interests are not involved. The police then must examine whether the charges have some foundation and launch an investigation. Thus, in relation to corruption cases, citizens are not likely to face a financial burden that would constitute an obstruction of justice.

Corruption is not an issue specifically targeted within the judiciary as an internal problem. Although the National Judicial Council requested a survey of legal professionals on the perception of corruption in relation to the judiciary, there is no strategy so far to alleviate the reported problems. Since practically no conviction has been handed down so far in relation to corruption involving any member of the judiciary, the findings of the survey remain allegations, details of which are not publicly accessible.

As an external problem, judges have to rely on the evidence that is brought before them. Because serious cases of corruption start at county level (first instance), it may be reasonably assumed that sufficient attention is devoted to dealing with those cases.

Relationship to other pillars

The judiciary works in close co-operation with the prosecutions service, within the framework of the criminal procedure code. Judges must rely on the evidence that is brought before them in most criminal cases by the prosecutions service.

The president of the Supreme Court is elected by Parliament by two-thirds of the votes cast. Parliament also passes legislation concerning the functioning and budget of the judiciary. The judiciary is not connected to any other segment of the state, government or other pillars of the NIS, but needs interact with them so far as the law prescribes.

Courts oversee administrative decisions, which includes those concerning the highest levels of government. In administrative matters, this is a form of reliable and effective review; such decisions are binding on everyone.

Civil Service/Public Sector Agencies

Roles of sector as a pillar of the NIS

Work for the state in Hungary (both at central and local level) is covered by two acts: the legal status of the civil servants is prescribed in Act XXIII of 1992, while Act XXXIII of 1992 contains the regulations concerning public employees. The basic rationale of this differentiation was to create – as far as the terms of employment are concerned – a more business-like sector within the public sector, in which the new category of workers called public employees could be employed under more flexible circumstances than the classic civil service. This aim has been realised only partially and plans for a reunified act have been introduced from time to time.

Public service institutions are not regarded as organic parts of the public administration. Public services have to be provided in an economic, flexible and time-efficient way to satisfy their

customers, i.e. the citizens. New tasks have emerged and the old tasks have been transformed, and the restructuring of the regional units and levels of public administration is a current and ongoing process, requiring the state to create institutions other than the core public bodies as ways of adapting to the changes. Public service institutions are granted a certain measure of autonomy in order to function according to customer expectations, but they all belong under the authority of the state. The classic type of public-service providers in this sense are what are known as the 'public institutions', typically working in the social, health or the cultural sector. Their activity is very much controlled by the core institutions of public administration or 'government', since these directly determine their establishment, closure and budget and exercise continuous powers of control and inspection over them. This dependence became evident to the Hungarian public after the last elections, when the government started major reform in the health care sector by merging hospitals, and cutting numbers of beds and staff. An even more recent restructuring has been underway in the education sector with the closure of many schools and the dismissal of more than 8,000 teachers.[232]

'Public bodies', by contrast, may only be established by acts of parliament in order to carry out an assigned public task through the exercise of public power. Typical examples in this category are the chambers of certain professions (doctors, architects, lawyers, etc.) which hold records and exercise powers of supervision and discipline over their own members. The public bodies function on the principle of autonomy and self-governance, and so core public administration, or 'government', had relatively limited powers of supervision over them as compared to public institutions. Another instance of a public body is the Hungarian Academy of Sciences.

A third type of public-service providers in the Hungarian system now no longer exists. This was the 'public foundation'. These were institutions that could be established by the Parliament, the Government, local governments or minority self-governments to pursue a long-term public goal. Unlike 'simple' foundations, which can be established by private persons or companies and are subject to control by the public prosecutor – and could not be founded by public organs, the creation of these public foundations had to be published in an official journal and their functioning was subject to the control of the State Audit Office. The special rules on public foundations were adopted in the 1990s to create more transparency in the system for foundations established by and using public sources. Despite the regulatory measure, however, the number of public foundations multiplied and the law failed to stop the leakage of public money and the practice of granting leading positions in the foundations on political 'merits'. In 2006 the Parliament therefore passed a law abolishing the public foundations, except for those created by the Parliament itself or by international treaty. Public organs are no longer allowed to establish foundations.[233]

In 2006 the number of civil servants was 109,800, while 533,700 people worked as public employees.[234] In the summer of 2006 the government carried out the most extensive reform of the executive since 1990 concerning the public administration and the public sector as a whole by changing the internal hierarchy and management inside the ministries. Between 1990 and 2006 the Hungarian ministries had been headed by the minister and a junior minister (called 'political state secretary'), also a politician, and a permanent secretary (called 'administrative state secretary'), who headed the civil servants of the ministry. The 2006 reform abolished the position of the permanent secretary, and placed the whole civil service apparatus under direct political control of the minister and his so-called ministerial cabinet (staffed by political employees and not by permanent civil servants). This reform changed the internal structure but also had a far-reaching impact on the system of governance within the government, resulting – according to some critics – in an over-politicisation of the central civil service.[235] According to governmental disclosure 200 institutions with a public budget were merged with others, 2000 civil servants were dismissed from the ministries and the number of higher ranking civil servants was reduced by 50 per cent. As a result of the measures 12,000 civil servants and public sector employees have left the public administration.[236] Other sources estimate that the number of civil servants has dropped by 40,000 in the last year, while health and the education sector have both lost 10,000 employees.[237] The distinguished group of civil servants, established by the previous right wing government, which had been selected on the basis of special personal qualifications set by the Civil Servants Act and assigned particularly high salaries, has also been dissolved.[238]

Special provisions exist to prevent political interference in public employment. The rules for public administration in the narrow sense of government are stricter than in the wider public sector. Civil servants are only entitled to exercise executive, administrative, inspection and supervisory functions on behalf of public institutions. With the exception of the political advisors (the temporary staff of ministers, that cannot exceed 8 per cent of the staff of the ministries), all civil servants are assumed to be neutral and required to be loyal. Membership of a political party is forbidden by the Civil Servants Act. Public employees and civil servants – except for the police,

intelligence service, etc. – are allowed to strike, but this right is subject to special agreements between the government and the trade unions concerned.[239] The safeguards for neutrality are considered to be effective within the public service, but have traditionally been weak in recruitment policy.

Following a recent amendment to both the Civil Servants Act and the Public Employees Act a compulsory system of open competition has been introduced for almost all workplaces within the public sphere. All vacancies for civil servants and public employees now have to be advertised. Positions exempted from the rule have to be listed, and the number of persons appointed without open competition is set at three per cent of the employees of the institution concerned. The employer decides on the appointment after drawing up a list of candidates in order based on qualifications, but there is no rule stating that he or she has to choose the competitor with the highest scores. Furthermore the employer has also the discretionary power to announce a new competition if the first round turns out to be unsuccessful or unsatisfactory. The candidates have to be informed about the results of the competition.[240] Prospective civil servants are also required to take a competitive examination.

As a general rule civil servants are appointed for an unlimited period of time, but increasingly positions are being offered only for a limited timeframe. The introduction of limited employment terms has been causing anxiety among civil servants, especially since security and predictability have traditionally been among the most attractive aspects of a career in the public sector. Predictability has been further undermined by the new civil service remuneration system that includes performance evaluation components in salaries for public officials.[241] As far as the conditions of employment are concerned, the significance of the six-month probation period is that at this stage either party may terminate the employment relationship with immediate effect. Otherwise, the there is little flexibility as regards dismissal of civil servants, since the Civil Servants Act prescribes the cases in which a civil servant may be dismissed either a) when the entity exercising employer authority has discretionary jurisdiction[242] or b) when the dismissal of the civil servant is compulsory[243]. The reason for dismissal must be clearly stated and the employer must prove that the reason for dismissal is real and reasonable. The rules of dismissal are quite similar for public employees. Senior official assignments may be withdrawn at any time, although (as a consequence of another recent amendment) heads of departments now serve a 6-year period grounds for dismissal before the end of that term being highly restrictive. This step has been heavily criticised by the opposition who see it as a way in which the government is securing the position of 'its own people'.[244] The minister has the power to promote civil servants if they meet the requirements established by law.

A new system of performance evaluation and remuneration for civil servants has also been adopted.[245] Civil servants whose work is outstanding may get salary raises while poor performance may result in reduction of remuneration. This measure is seen as an important way of bringing the civil service into line with the more flexible private sector where excellence is rewarded.[246] The basic rules of performance evaluation can be found in the Civil Servants Act. The ministers and the leaders of the national supervising bodies annually determine the most important criteria for performance evaluation. On the basis of these criteria the person exercising employer authority determines the particular principles for evaluation of the performance of his/her civil servants. These measures are continuing to provoke fierce discussion, however, since private-sector methods of evaluation are rather new in the public administration and so sometimes shocking for the employees. Observers note that so far the reforms have tended to weaken public administration and its efficiency, largely due to the scale of the redundancies. The structure is losing its foundations while most administrative procedures have not been simplified at all. It therefore seems unlikely that the introduction of performance evaluation and other associated measures will have the desired effect, since these are advanced steps that require structural changes to have occurred beforehand if they are to be successful. [247]

Resources/structure

According to Act XXXVIII of 1992 on Fiscal Administration, the basic sums of the budgetary system are fixed in chapters, within which resources can be used with a relative freedom. Annex I of Act CXXVII of 2006 on the Budget of the Republic of Hungary for the year 2007 lists the financial sources for all public administrative organs and the public service concerned. Chapters are considered on the level of ministries and local governments, while autonomous public agencies form further individual chapters that ensure a level of autonomy in the budgetary field. Those responsible for each chapter (ministers or chairmen of the given autonomous agency, etc.) have

the right to draw up a budget proposal for their chapter. The chapters also have relative freedom in the implementation of the adopted budgetary act as well.

Although civil servants are paid from the budget of the given agency as a result of their status and cannot receive off-the-book funds, this rule is not fully implemented in practice. Individual contracts under the terms of civil law are often used to grant extra payment for tasks performed by civil servants, to ease the rigidity of the career-based payment scales.[248] Public employees are forbidden by law to take on any other kind of employment relevant to the public service work that they perform.[249]

Accountability

In general there are two basic types of control within and over the public administration: a) internal control within the system of public administration itself and b) external control carried out by judicial or other organs such as the ombudsmen and State Audit Office. Internal control can mean, on one hand, direct control within the hierarchical structure; the superior organs or departments have strong powers to influence, determine and instruct the dependent body as is usual in central public administration. On the other hand, control over the public service is limited to supervision; it tends to examine the legality of the decisions of the public service providers and interfere with legal, budgetary and organisational questions, but not to focus on the everyday work of the institutions. According to the rules of administrative procedure any person whose rights are affected by an administrative decision may file a complaint with the authority that made the decision.

External judicial control is exercised by the courts, since the Constitution entrusts them with the power to review administrative decisions.[250] In 2006 the number of cases relating to the public administration filed in the first instance county courts was 15,757 – an increase on the previous year.[251] (The Hungarian court system does not operate a separate system for administrative courts; they are built into the general structure of the judiciary.) The most common types of cases arise from tax and customs problems, decisions taken in regard to building permits, decisions of local governments, restitution, and rulings in connection with competition law, public procurement, immigration and asylum law, etc.[252]

The ombudsman (together with the commissioner for data protection and the commissioner minority rights) is also responsible for monitoring violations of rights committed by public administrative organs. Although the ombudsman is not entitled to make decisions binding on the institutions concerned, the statistics show that citizens often turn to his/her office with complaints. In recent years the ombudsman has received most applications on alleged violations by the police (in 2005: 427, in 2006: 342), local governments (in 2005: 1,119, in 2006: 837), and such public service providers as, inter alia, public transport, heating, post or electricity (in 2005: 361, in 2006: 284). Most applicants complained about the decision taken, the silence of the administrative body or mistakes in the procedure.[253]

The State Audit Office audits and evaluates the financial operation of public institutions. Its reports and recommendations are in most cases taken up by the media and the organs concerned as well, as happened in the case of the abolition of public foundations.[254] Even so, steps need to be taken to ensure that it has even more impact in future.

Integrity

The Civil Servants Act includes prescription of a duty to avoid any financial or other interest that could interfere with the performance of public duties. Political conflicts of interest are prevented by forbidding membership in parties or membership of the local council in the place where the civil servant works. A civil servant in the central administration may not be a representative in a local government.[255] Public officials may only engage in additional employment such as literary or educational activities with the consent of their superior. Written reports of any situation that may give rise to a conflict of interest are mandatory. Failure to resolve a conflict-of-interest situation can lead to the termination of employment, although the civil servant may always avoid dismissal by removing the reason for the proceedings. Holding a senior position in a company is forbidden for civil servants.

The regulations on conflicts of interest for public employees are formulated rather vaguely: according to the Act they are not allowed to have any other job that is in conflict with their public employment. Other conditions are to be adopted in rules on public employment: for example in

the higher education sector senior officers will note be able to hold senior positions or be bookkeepers in companies founded or owned by their employer.[256] While civil servants are explicitly forbidden to act as local government representatives, there is no such ban on public employees. The National Association of Local Governments (TÖOSZ) has recommended the introduction of the same restriction for the latter group as well.[257]

There are no special provisions to prevent public officials from moving to the private sector and abusing their contact networks and knowledge acquired in the course of their former duties. In addition, there are no rules regarding the acceptance of gifts for public employees, although all gifts are to be registered in the declaration of assets. A general Code of Conduct for Civil Servants has been under preparation for several years, but there is still no sign of it being adopted. Adoption of such a code has been mentioned as a recommendation in the Second Evaluation Round Report of GRECO (Council of Europe), on which Hungary should act.[258] Along with drawing up a Council of Ethics, it is also stated as a priority for 2007/2008 in the State Reform Operative Programme.[259] Public employees have also started to create their own codes of conduct, although the tendency is limited to certain professions – such as the Code of Ethics of Social Work[260] or the Code of Ethics of the Police Profession.[261]

Transparency

The Constitution provides the right of access to information held by public authorities. According to Act LXIII of 1992 on the Protection of Personal Data and the Disclosure of Information publicity applies as a default rule for all documents held by a public authority, and there is a right of appeal against denial of access to information. The Freedom of Electronic Information Act introduced additional transparency rules by extending the duty of disclosure of public data (e.g. annual budget, report on annual budget, etc.) on the website of a public administrative organ. Transparency via the Internet includes the obligation to publish legislative drafts and so providing the public with the chance for electronic consultation. It should be noted, however, that these provisions are not fully implemented in practice and most of the websites in the public administration do not comply with these requirements. In recent years one of the biggest projects bringing e-governance closer to its users has been www.magyarorszag.hu run by the Electronic Government Centre, a web-site aiming to provide information about governance and offering e-administration (through what is known as a client gate) for citizens.

The Glass Pocket Act has introduced detailed rules on transparency and publicity in the use of public funds and property.[262] Although there had been no general obligation on civil servants to declare their assets, a regular declaration has been required of a certain group of employees having 'important and confidential positions'. The Glass Pocket Act has extended this obligation. Property must now be declared on a biannual basis by the following categories of persons: senior executives of economic organisations and members of their supervisory boards managing state property of significant value when these members hold a majority of the shares in such an organisation; those responsible for granting or monitoring the granting of state or local government subsidies, as well as those responsible for supervising the proper use of such subsidies once they have been granted. According to the Civil Servants Act the employer of the civil servant must periodically compare successive declarations of assets in the presence of the civil servant.[263] If in view of the legal income of a particular civil servant an the increase in the assets of the civil servant cannot be satisfactorily explained, or if a report is submitted by a third-party indicating that assets have not been declared, the head of the administrative institution concerned has to initiate an inspection process at the Control Office of the Civil Service. The effectiveness of these provisions is reduced by the fact that the current system of verification does not permit random checks on the reliability of asset declarations submitted by public officials, although an investigation might be initiated if any suspicious increase in assets is reported to the employer. Furthermore, critics point out that the burden of proof concerning the origin of the assets needs to be placed on the civil servants.[264] Public employees who work with budgetary or other funds or have powers of audit in finance matters or are entitled to decide on state or local property, are also supposed to declare their assets at the beginning of their employment and subsequently every three years.[265]

Complaint/enforcement mechanisms

The Hungarian civil and public service lacks proper whistle-blowing procedures. No structure or organisation has been developed with regard of reporting within or outside the hierarchy. According to the Civil Servants Act, a civil servant must refuse the execution of an order of the

superior if compliance would a) constitute a breach of law or b) mean a serious and direct threat to others life or health. The order may be refused if it would endanger the civil servant's own life or health.[266] The civil servant may also request that the order be written down if likely to cause a breach of law, damage, detrimental consequences for the civil servants or others concerned. A dissenting opinion opposing the order may also be attached to the file. No other protections exist in law for civil servants, however, and so the options and safeguards in the case of e.g. reporting corruption are rather limited. On the other hand, the Criminal Code states that the functionaries, i.e. most civil servants, who fail to report a yet undisclosed bribery are liable to criminal prosecution.[267] The situation is rather controversial, since this liability combined with the absence of a reporting culture is likely to result in 'over-reporting' of alleged or assumed violations of law, as was noted by the GRECO in its evaluation on Hungary.[268] The problem is similar within the public sector having even less regulations on reporting.

Investigations of corrupt officials usually do not attract widespread public attention. It is a well-established tradition in all public administrative bodies to try to keep problems 'in the family' and deal with them with the least possible publicity outside the structure. Most cases are dealt with using the provisions of the Civil Service Act on disciplinary measures. Other affairs involving breaches of law can result in court proceedings. There are no exact statistics on disciplinary, police or judicial procedures against civil servants for corrupt activities. Nevertheless, the extent of action taken shows up in the number of crimes recorded by the police, although the data refers to all investigations launched against functionaries including judges, MPs, notaries and local government representatives, etc. as well as civil servants.[269] Between 2002 and 2006 the number of recorded cases of active bribery (demanding bribes) committed by functionaries dropped from 436 to 218, while passive bribery cases (accepting the offered bribe) dropped from 230 to 86.[270]

By an act adopted in 2004, citizens may obtain redress by means of complaints and announcements of general interest filed to state or local organs.[271] The act does not cover complaints that fall under judicial or public administrative procedures. An announcement of general interest attracts attention to circumstances that need to be rectified for the sake of a community or society, and may also contain recommendations on how to solve or ameliorate the problem. The public administrative bodies have to respond to the announcement within 30 days. The act has a historical background in the form of a regulation originating in 1977 that protected the announcers and obliged the organs addressed to keep a record of the cases lodged with them.[272] This older law had little effect: here are hardly any records of complaints or recommendations received under the act. Despite claims that the right to turn to public institutions is a major step forward, protection for announcers of general interest continues to reside in the Criminal Code.[273]

Relationship to other pillars

The civil and public service plays an important role in Hungary's National Integrity System. Most citizens associate corruption above all with public administration and its employees, and so it is essential to address this issue in any reform initiative launched. Civil servants dealing with public funds or employed in the field of public procurement, building and other permits are particular targets for bribery, and their status is highly sensitive. The situation in smaller communities and local government is even more problematic since the personal relationships often put pressure on decisions, measures and investigations. Political influence and the constant changes within the administrative structure jeopardise the stability of the system and public service.

The civil service and public sector is in constant interaction with the other fields of NIS. Any step aiming to prevent corruption in the pillars has to be planned with an eye to its possible effects on and outcome for the public administration. This is certainly true the other way around as well. Without committed civil servants and public employees there can be hardly any chance of building a stable and functioning integrity system. The first and basic condition of requiring commitment from state officials is, however, to create security and decent financial circumstances for them. Some of the recent government measures are clearly heading for this direction, while continuing problems, such as the absence of a whistle-blowing system or the holes in the declaration-of-assets regulations, as well as difficulties with the new performance-evaluation system, highlight the need for further engagement.

Law Enforcement Agencies

Roles of institution as a pillar of the NIS

The police and the prosecution have primary responsibility for detecting acts of criminal corruption and investigating cases related to it, there being no serious forms of corruption outside the scope of criminal law. The law does not, however, specifically employ the category of corruption to define any one offence or group of offences; corruption is dealt with variously under the headings of bribery, abuse of official powers, unlawful exercise of influence or the offer of such activities. The investigation of some offences that may involve corrupt behaviour, such as tax fraud, or acquiring unjustified economic advantage, is within the competence of the Customs and Finance Guard. Other law enforcement agencies (the Prison Service, Emergency Management Service and national security services (empowered to use coercive measures) have no direct tasks in fighting corruption, but in the course of performing their functions they are obliged to take the necessary steps to eliminate corruption or to report such phenomena to the relevant organs.

The performance of the law enforcement agencies as pillars of the NIS is unsatisfactory, as is evident from comparison of official data with independent research results and people's day-to-day experience. The number of corruption-related offences recorded is small enough to suggest that a very high percentage of criminal acts go undetected. Bribery is the main category of these types of crime. In 2002 only 735 bribery cases were investigated. After a certain drop in the figures in the following years, in 2005 there were 818 incidents but thereafter (2006) the number of bribery cases went down to 363.[274] It should further be noted that only about 40 per cent of police investigations resulted in a court sentence.[275]

Police and the other law enforcement agencies have all the powers necessary to investigate suspicious relationships of interactions (these include covert information gathering, use of informants, and even undercover officers). Under certain conditions the police are even allowed to use entrapment in the field of fighting corruption. Yet there is no evidence of any significant effort on the part of the police to focus on this negative phenomenon of public life, apart from a campaign aimed at reducing corruption within the police service itself.

The efforts of law enforcement agencies to uncover and prevent corruption are crippled by the fact that these agencies are not free of the disease themselves. According to relevant research findings, the conditions of police work in Hungary create fertile soil for corrupt conduct. Most authors identify police (sub)culture as one of the strongest and most important factors generating either conditions for corrupt behaviour, or corrupt police behaviour itself. In particular, group camaraderie among members of the police can mean the protection of colleagues even when they are in gross violation of the law and/or elementary standards of human behaviour.[276]

Indeed, about 10 to 25 per cent of all registered offences definable as corruption are committed by police officers.[277] Of course, this rate of discovery in itself reflects some determined efforts made by law enforcement management to fight internal corruption. The Protection Service for Law Enforcement, which reports to the responsible minister, has made considerable efforts to uncover abuses and to forward the information to the relevant investigative organs. The fact that the Service has access to secret information without having the power to start criminal proceedings itself has attracted controversy. The lack of balance in the approach to internal and external corruption means that the latter goes to a very large extent undetected.

The Prosecution Service in Hungary is independent of any other subsystem of public power; it reports only to the Parliament and is additionally protected from certain kinds of parliamentary interference. The Prosecutor General, for example, may not be removed during his 6-year term. S/he is elected by the Parliament and directs the whole organisation of prosecution. The Military Prosecution is a subordinate unit in the Prosecution Service. The Military Prosecutor General is one of the deputies to the Prosecutor General. Cases involving members of the law enforcement agencies are investigated by civilian prosecutors unless the alleged offence is military in nature (such as disobedience, breach of service norms, etc.). Since the election of the Prosecutor General requires only a simple and not a qualified two-thirds majority, party political rather than merely professional considerations are a factor. This can be illustrated, for example, by the fact that on 3 July 2006 the Parliament rejected the candidate put forward by the President (who has formal power of nomination), basically because there had been no prior consultation with the parliamentary parties. The whole procedure offers scope for effective nomination by political alliances.

It should be stressed that police culture is relatively introverted rather than orientated to public-service orientated. There is one national police force, and it is highly centralised and militarised. Other law enforcement agencies are organised and managed in a similar way, although fire brigades report to local government. A National Commissioner, who is appointed by the Prime Minister but reports directly to the Minister responsible for police, heads the entire police force. The National Commissioner may be removed at any time by decision of the Prime Minister on the recommendation of the Minister. This again means that political considerations may be involved in both appointments and dismissals. The only safeguard on appointment to this office is that a nominee must appear before the relevant Standing Committee of the Parliament, but this is weak as a safeguard because the government majority can any time overrule the opposition even in the committees. In any case, the opinion of the Standing Committee is not in any way binding on the Prime Minister.

In the course of criminal investigations the police operate in subordination to the prosecution service, which bears general responsibility for investigating cases, preparing indictments and conducting prosecutions before courts of justice. There are some minimal safeguards for police independence in this context (particular instructions may not be issued depriving police of the exercise of their powers). On the other hand, under certain conditions, police are bound to obey the orders of a superior even if these are unlawful.[278] This is certainly not a provision promoting accountability and the rule of law in general.

Corruption cases are investigated both by the police and the Prosecution Service, but investigations are arguably hampered by a lack of the professional expertise necessary for these cases. The technical capacities and resources of organs responsible for investigating and prosecuting corruption cases need to be substantially increased if these organs are to be able to uncover high-level corruption issues linked to political and economic interests. Nevertheless the existing capacities are not necessarily fully used, since evidences are not collected on a timely manner, procedures may take extremely long and consequently court decisions are perceived to be too soft.[279].

Some legal provisions even tend to legitimate and encourage activities that might be regarded as manifestations of institutional corruption. Government Decree 16/1999. (II. 5.) Korm. regulates state police services delivered on the basis of private contracts made by the police management with anybody willing to pay for those services. The fact that the police have wide discretionary powers of supervision and inspection with respect to the entire private security sector while at the same time appearing as a competitor to these companies on the security market offers plenty of scope for abuse. What is more, the Decree makes it clear that while performing private services on this contractual basis, officers may exercise all their public powers.

Resources/structure

In addition to the National Police and the Prosecution, the following authorities exercise law enforcement powers: the Prison Service, the Customs and Finance Guard, the Emergency Management Service, and five national security agencies: the National Security Office (constitutional protection, counter-intelligence), the Intelligence Office (foreign intelligence), the Military Security Office (military counter-intelligence), the Military Intelligence Office (intelligence service), and the Special Service for National Security (which conducts operations such as interception of communications for all law enforcement organs inclusive police). Local government authorities have the power to establish Supervision of Public Space, i.e. a local street police with very limited powers.

The annual budgets of the law enforcement agencies are approved by the Parliament as part of the budget of the responsible ministry. The Treasury covers the expenditure of the services to a very great extent, but a small proportion is based on anticipated income generated by the organs themselves. For example, the annual approved budget of the police for 2004 amounted to HUF 162,331.7 million (EUR 6.5 billion). HUF 158,396.1 million (EUR 6.33 billion) was provided by the Treasury while the rest (HUF 3.935,6 million – EUR 0.17 billion) was the contribution of the police themselves. This kind of income can be generated, for example, by undertaking private work (based on the Government Decree 16/1999. (II. 5.) Korm.), by selling properties, etc. It is therefore possible that police managers receive moneys not included in the official budget. In addition, funds provided to cover secret operations by the police are allocated without detailed description of purposes and can be spent without special scrutiny. The salaries of police employees are much lower than those in other law enforcement agencies, and this disparity contributes to the vulnerability of the sector to corruption.

Following the imminent merger of the Police and Border Guard (decided in 2007) the total staff of the National Police will be about 45,000. The other services employ substantially fewer people. (Customs and Finance Guard: about 6,800 staff; Prison Service: about 8400 staff; Emergency Management Service: about 9,000 staff, national security services about 4,000 staff, Prosecution Service 3,755 staff). The Supervision of the Public Space services employ inspectors depending on the needs and financial possibilities of local government authorities. The biggest organisation is operated by the Capital City Authority (about 250 staff).

Accountability

As has been indicated, most of the law enforcement agencies report to government ministries. This is the basic structural guarantee of their accountability, although in some cases certain other authorities have supervisory powers over law enforcement. It must be emphasised, however, that the military type organisational structure of police and similar services substantially restricts effective supervision of their operations.

Parliament itself has various powers to check the executive, but in the Hungarian parliamentary system the same majority stands behind the government and the decisions of the legislature. Thus members of parliament are unlikely to take a very critical stand in cases of alleged law enforcement abuse. Parliamentary Commissioners (Ombudsmen) have the power to investigate complaints or to conduct an inquiry on their own initiative in cases of alleged irregularities threatening constitutional rights. In the field of law enforcement a long list attached to Act LIX of 1993 on the Parliamentary Commissioner on Citizens' Rights restricts the sources of information available to the Commissioners. They are not allowed access to classified information, e.g. into confidential international agreements by the police, secret undercover activities, etc. Yet there would seem to be no acceptable reason for preventing these elected representatives of parliamentary control having access to important pieces of information in the more sensitive fields of law enforcement which are, by reason of their sensitivity, all the more exposed to temptations of corruption.

Any action or failure of the police may be challenged in the courts. For example, civil lawsuits can be filed for damages and to seek remedy for violations of personal rights. Administrative decisions by law enforcement authorities including the adjudication of complaints are also open to judicial review. Criminal charges against law enforcement officers are tried by civilian courts, except where they involve military offences in which case they are decided by military councils of the general courts.

Chapter III of the 1994 Police Act deals extensively with the relations between police and local governments but does not give any really substantial powers to municipal or county representative bodies. Police chiefs have an obligation to present a report on the public security situation in the area. Local governments may order a second report if the first is unsatisfactory. If the second report is also rejected, the county police chief or the National Commissioner has to conduct a comprehensive investigation including a scrutiny of the quality of local leadership. The final decision will nonetheless be made within the police organisation. In practice, some local governments have used their powers to reject a Police Chief's report, but without substantial results. Local self-governing bodies do not have the right to enforce their will against protectors of public security. It must also be noted that decisions related to police reports are often perceived as motivated by party political considerations.

Prosecutors report only to their service superiors. The system is fully centralised, and those at the higher levels of the system have the right to instruct subordinate units or prosecutors. The Prosecutor General is the head of the whole structure. He or she can be questioned in Parliament but there are no legal consequences if parliament does not accept the answers.

The public does not have any influence on the police as law enforcement is not perceived as a service provider function. Despite this, some NGOs are exercising certain functions of oversight based on individual agreement. For example, the Hungarian Helsinki Committee may visit detention facilities even without prior notification.

Integrity mechanisms

According to Article 40/B of the Hungarian Constitution, professional members of the Hungarian armed forces, the police, and the national security services may not be members of political

parties and may not engage in political activities. The same applies to prosecutors (Article 53, Paragraph 2 of the Constitution).

Law enforcement officers have the right to join professional or other organisations, but they have to inform their service superiors of existing or intended membership of organisations unrelated to their professional duties. The commander may prohibit the law enforcement officer from becoming or remaining a member of such an organisation if it is incompatible with the profession or duties of the law enforcement officer, or if it interferes with or endangers the interests of the force.

Members of the various law enforcement agencies are subject to a number of further restrictions and reporting duties. A decree of the Ministry of Interior explicitly prohibits police officers from undertaking any part-time job with private security companies.[280] In the absence of special norms regulating other kinds of extra employment for officers, the general rule is that any part-time job has to be reported to the service superior who has the right to accept or prohibit these activities. Increased supervision means that these restrictions are basically complied with, but additional earnings are typically obtained from non-registered jobs and participation in businesses officially conducted by other members of the family.[281]

Prosecutors may only accept remuneration in addition to their salaries for activities performed in the fields of science, education, arts. They are prohibited from participating in any form of entrepreneurial business. Members of the prosecution service may not accept fees for their public statements.[282]

Accepting gifts relating to performance of law enforcement duties is prohibited. A police officer may not accept any gift, donation or advantage except in cases of honours regulated by the appropriate statute.[283] The same applies to hospitality, since the term 'advantage' covers all kinds of personal gain. The Code of Ethics published in July 2007 goes even further by requiring police officers to refuse all kinds of gift, advantage or courtesy that may result in their impartiality coming into question, even if these are not related to law enforcement services. The Code of Ethics for Prosecutors issued by the Association of Prosecutors contains similar provisions extending the requirements to include a duty to dissuade relatives living in the same household from accepting gifts or advantages that may undermine the impression of unbiased professional activity.[284]

There are no general post-employment restrictions. One of the very few examples of exclusionary provisions is the regulation prohibiting former employees of law enforcement organs from acting as members of the Independent Law Enforcement Complaints Board (see below) within six years of leaving their positions.[285]

The above-mentioned provisions are effective insofar as violations can be detected. The Protection Service for Law Enforcement operates as an internal intelligence agency for detecting violations by officers, and once a breach of conflict-of-interest rules or norms covering gifts, advantages is identified, the appropriate proceedings must be initiated. This does not, however, deter officers from accepting gifts and engaging in prohibited activities approved by their environment (free coffee, participating in the business of family members, etc.).[286]

Transparency

There is no general duty for police or other law enforcement officials to submit a declaration of assets. On the other hand, higher ranking managers of the services such as heads of police departments have to go through a security vetting before appointment and this includes questioning on their property and income. There are now national security and other (moral) conditions that have to be met on initial entry to the law enforcement agencies. Information provided may be checked before recruitment and also in the course of a police career.[287] All the information gathered during these checks is confidential.

The Glass Pocket Act introduced provisions to ensure transparency in law enforcement agencies. The most important data relating to contracts made by the organs concerned and involving sums of more than HUF 5 million have to be made public. In addition to the provisions of the Glass Pocket Act, another important piece of legislation, Act LXIII of 1992 on Protection of Personal Data and Publicity of Public Interest Data requires disclosure of all data not qualifying as personal data and not classified as secret. As mentioned in other chapters, these requirements are not fully complied with. The state organs typically maintain a web-page on their sites called Glass Pocket, which contains the relevant information.[288] Considerable progress has been made in making the police more transparent, but the basic obstacle to opening up the organisation to scrutiny has remained. This is the military character of the organisation and its operations. A body of this kind inevitably tends to hide its plans, weaponry and everything else that must not be disclosed to the

'enemy'. Accordingly, the 2/2004 (1.13.) ORFK (Police National Headquarters) instruction lists a number of 'service secrets', that must not be communicated to members of the public. These include data collected in the course of international police co-operation, information related to public order troops, and many other kinds of information are thus exempt from Glass Pocket regulations. The police are therefore far from being transparent in a way that meets the requirements of a constitutional democracy.

Complaints/enforcement mechanisms

Traditionally, complaints against the police have been investigated and adjudicated by the police themselves. The vagueness of the provisions covering the complaints procedure (Articles 92 and 93 of Act XXXIV. of 1994 on the Police), also meant that for some years it was unclear whether the final decision by the police could be challenged in the courts, but in 1999, the Hungarian Supreme Court ruled that activities of the police outside criminal procedure qualified as administrative functions, and so second-instance police rulings on complaints were subject to judicial review.[289]

Reacting to the failures of the police during the Budapest disturbances of September–October 2006, the government decided to introduce some civilian involvement into the police complaints procedure. An Independent Law Enforcement Complaints Board is being set up by an amendment to the 1994 Police Act.[290] Article 15 of this law empowers the new body to conduct inquiries into complaints of violations of basic (constitutional) rights by police. All other cases, i.e. complaints on a lower level, are to be handled within the existing framework. The Board will not have the right to pass a decision even on the cases that it reviews. Instead, its opinion is to be forwarded to the National Commissioner of the Police who will have the power to issue a resolution that can then be challenged before a court of justice (Article 16). This amendment, which will be implemented from 2008, is certainly a step forward but is a long way short of creating a system of really independent civilian control. The measure is likely to be extended to other law enforcement agencies but is not expected to become an effective tool against corruption since bribery and similar transactions typically remain hidden from those with any interest in detecting and punishing them. Nonetheless, by contributing to the development of the overall legal culture and awareness of police officers it can certainly have a positive effect.

In 2006 sixteen police officers were finally convicted of corrupt behaviour, and one was acquitted.[291] By the turn of the century, efforts to screen out corrupt officers were intensifying. The percentage of law enforcement officials among offenders charged with bribery or abuse of influence continues to be disproportionate to their numbers in the population. As has been noted above, about 10-25 per cent of all registered offences definable as corruption are committed by police officers, although there are wide variations in the figures between years (in 1997, for example, the percentage of police corruption suspects was as much as 42 per cent of all persons involved in criminal proceedings for the same offences[292]). Prosecutors have hardly ever been charged with corruption. There is an anti-corruption unit at the Prosecutor General's Office. The public does not play any significant role in complaints mechanisms because of the military character of law enforcement. The Independent Law Enforcement Complaints Board, which is to start functioning in 2008, may open the way to more effective public participation in the process of dealing with complaints.

Relationship to other pillars

Law enforcement agencies work with and basically for the other institutions of the criminal justice system. Since introduction of the new criminal procedure (Act XIX of 1998, but implemented only from mid-2003), there has been tension between police and the prosecution service because the former is defined as a subordinate organisation with the duty to obey the instructions of the latter. The courts are often criticised by police officers for being too lenient toward criminals.[293] Law enforcement agencies maintain formally good relationships with civil rights groups just so long as they receive no substantial complaints from such groups. Any criticism relating to the competence and authority of the law enforcement community is usually sharply rejected without serious consideration of the problem indicated by NGOs.[294]

Public Contracting System

Roles of institution as a pillar of the NIS

Given the huge amounts of money involved and the lack of strong public oversight, public procurement is perhaps the most corruption-prone of all fields of Hungarian life. It is estimated that systemic corruption adds as much as 20-25 per cent to the costs of government procurement, and frequently results in the purchase of inferior or unnecessary goods and services.[295]

To prevent the misuse of public resources, the Hungarian Parliament has passed very extensive and complicated legislation on public procurement. The first public procurement law came into force in 1995. Before that date there had only been rather loose regulations on 'competitive negotiations', stipulating no precise rules and referring vaguely to terms like 'certain questions which need clarification'.[296] The new Act on Public Procurement (hereinafter referred to as the PPA)[297] was the outcome of long and heated debate and was subsequently subject to many alterations to bring it into line with EU harmonisation requirements.

The new Act is very long, and has been amended 21 times since 2004. Not only the provisions of the Act itself but the relevant articles of 21 pursuant executive decrees must be complied with during public procurement proceedings. More than 400 articles and numerous amendments make it difficult to apply the new procurement system and are the cause of a number of misunderstandings.

The Act divides all types of public procurement procedures into regimes defined by the value of the procurement. The general idea is that the higher the value of the procurement the more stringent, exhausting and detailed are the rules that apply to it. Public procurements reaching European community thresholds are governed by the most stringent regime. At the next level down, public procurements of lesser value reaching on the so-called national thresholds are subject to fewer and looser regulations.

While general rules provide for open bidding as the main type of procedure, in each regime there are many different types of public procurement procedures, such as open procedure, procedure by notice of invitation, negotiated procedure, etc.[298] It would seem reasonable to assume that 'procedure by notice of invitation' is the category in which corruption is likely to be the most widespread, but experts believe that participants ready to engage in corruption will always find ways of subverting the procurements process no matter which form of tender applies. In addition to the main types of procedure, Hungarian law has introduced a dynamic electronic procurement system, but this has only been in use since 1 January 2007, and so has had little if any impact on the big picture as yet.

There are plenty of exceptions to the main rules set out in the PPA (i.e. cases where general public procurement procedures do not apply). Some of these are based on internationally accepted principles, such as the exception for proceedings that concern a state secret or a service secret or the fundamental security and national security interests of the country, or that need to be accompanied by special security measures. What is more questionable and shows the impact of purely political interests is that the power to initiate an exception of this kind is vested in the competent parliamentary committee, which does so by adopting a preliminary resolution. This leaves the exemption vulnerable to significant manipulation, since it is very easy to find connections – however distant or specious – between public funds and special security questions. Other exceptions (e.g. with regard to procurement of broadcasting material) are only partially justified, since most of the contracts signed in this area go well beyond issues of special artistic ability.[299]

The legal regulations are fairly massive in quantity and absolutely binding, leaving no exceptions unless explicitly stated by law.[300] This is to ensure objectivity, but since it is impossible to provide for every little stage in the whole procedure, some room is left for subjectivity. This is inevitable, but so long as there is no local industry protection policy in place this subjectivity offers distinct possibilities for favoured local businesses.[301]

The PPA explicitly prescribes the detailed content of bids and other related documents such as certificates.[302] This is supposed to provide a formal, open environment for tenderers and so to ensure equal chances for competition, just like the rule that all communications, clarifications and addenda must sent to each and every bidder.[303] Whenever a public procurement procedure is to be initiated, the party awarding the contract has to set up an operational 'working body' and a small committee to award the contract in question.

Fairness and legal order is also ensured by law after a contract has been awarded. A control mechanism is in place, its main 'weapons' being the documentation and publicising of fulfilment of the contracts, including any modifications (which are only acceptable under special rules).[304]

Structure/Resources

According to the statistics provided by the Public Procurement Council (hereinafter referred to as the Council), we are talking about a 1,450 billion HUF (cc. 5.8 billion EUR) procurement market which depends mainly onto government plans and political decisions.[305] In Hungary the public procurement market is still very significant although in recent months it seems to have shrunk somewhat. In the first 6 months of 2006 the total value of public procurement procedures was approximately 840 billion HUF (3.36 billion EUR). In the same period of this year, 2007, the figure was only 623 billion HUF (cc. 2.5 billion EUR).[306] Researchers are still seeking to identify the reasons for the decrease. The Chairman of the Council, Mr Lajos Berényi, believes that 2006 was a boom year in the public procurement market.[307] The New Hungary Development Plan may still contribute greatly to the public procurement market figures for 2007.[308]

The Council is composed of nineteen members headed by an independent full-time Chairman (as a civil servant). Six members represent the public interests, six the general interests of the contracting authorities and six the general interests of the bidders. The members serve for an a minimum two-year term and receive no fees for their work from the budget of the Council.[309]

The Secretariat of the Council (staffed entirely by civil servants) is responsible for co-ordination, preparation of the Council's resolutions, data collection, recording and administration activities. The Secretariat prepares binding resolutions and non-binding recommendations for the Council. The Secretariat provides legal information in response to approximately 250 to 300 written enquiries annually, and 30 to 40 verbal queries daily.[310]

The Council monitors the application of the law and comments on draft legislation, makes recommendations (without binding force), collects and publishes statistical data on public procurement, edits the official journal of the council (the Public Procurement Bulletin) verifies and publishes the notices related to the procedures for award of contracts and design competitions, maintains relationship with international organisations, and organises education and training etc.[311]

The Council has the right and the obligation to issue recommendations to facilitate the application of the law.[312] In fact, it sometimes seems to go beyond its authority and create new law, and its recommendations are in some cases at odds with the decisions of the Public Procurement Arbitration Committee (hereinafter referred to as the Committee). The result is that contracting authorities and bidders cannot be sure how to apply the law. In some cases the recommendations of the Council are opposite to the legal practice of the Committee. The legal status of the Committee is clearly defined in the Act.[313] On the one hand there is a horizontal relation between the Council and the Committee, but on the other hand the independence of the Committee may be questioned because the Council has several rights over it.[314]

The Editorial Board is responsible for publication of notices related to public procurement. The notices received are checked to ensure that they comply with the relevant public procurement rules.

Government may order the organisations under its control to execute any public procurement procedure as a centralised procedure, thus determining the persons to be involved and the material scope of the procurement, the organisations entitled to invite tenders and the conditions of participation. Detailed rules pertaining to the centralised public procurement exercise are determined by separate decree. Local government bodies are also allowed to conduct an analogous centralised procurement procedure in connection with institutions under their control.[315]

Accountability

The wide range of discretionary powers in prescribing special provisions or setting out special conditions in invitations to tender,[316] leaves ample room for the manipulation of the procurement procedure, although the PPA has declared that the use of these powers does not result in unjustified discrimination for or against particular bidders. The contracting authority has the right to require bidders to comply with a number of formal and material requirements. If the bidders fail to fulfil the conditions they must be excluded from the tender. It is well known that Hungarian contracting authorities use this method to reduce the number of bidders, and that an authority can

easily (and without fear of sanction by another body) set special requirements at the start of the proceedings which it knows can be satisfied only by one of the bidders.[317]

One person interviewed in research on the problem[318] also highlighted the potential for corruption in the application of the so-called *formal requirements* of a tender. He had the impression that the requirements laid down by the Act for the form in which tenders should be submitted are not always applied in fair and reasonable ways. In his experience there were cases when several participants had been excluded from a procurement procedure on grounds of essentially trivial formal problems. It would therefore be advisable for further precise regulations to be issued on whether bids can be turned down merely for failure to comply certain types of formal requirement, and for the proper application of such regulations to be overseen and monitored by the Council.

Several mandatory and optional grounds for exclusion from public procurement proceedings are stipulated by Articles 60-61 of the PPA. The optional grounds may offer contracting authorities convenient ways of excluding bidders with whom they do not intend, for dubious reasons, to conclude contracts.[319] In these circumstances it seems counter-productive to allow the contracting authorities free discretion on whether to invoke these optional grounds. It is especially difficult to see why they have been allowed to give contracts to bidders who have committed an offence and have been subject to fines under Article 11 of Act LVII of 1996 on the prohibition of unfair market practices and restriction of competition.

Another vulnerable point in regulations concerns situations in which a bidder favoured by the contracting authority does not submit the best tender in the competition. Under the PPA, if the contracting authority is unable to conclude or fulfil the contract it can declare the procedure inconclusive, and if the higher authority withdraws financial support, the contracting authority is by definition unable to conclude or fulfil the contract and therefore has to declare the procedure inconclusive. A new procedure may be started if the upper authority provides the necessary financial support again, however, this is typically one of the methods by which a contracting authority makes it possible for the favoured bidder to take part in a new procedure.

Integrity

Acceptance of gifts by public officials in exchange for illegal advantages is an act expressly penalised by criminal law as bribery or trading in influence.[320] Extensive interpretation of the law by the Supreme Court has established the principle that persons having a decision-making role in public procurement proceedings should be regarded as public officials, and if accepting bribes should be punished accordingly.[321] Other kinds of illegal conduct in public procurement proceedings (e.g. illegal agreements to distort competition) are now covered by special criminal law provisions. The new regulations came into force at the end of 2005,[322] and so there is as yet no data on investigations for this offence.

The law on public procurement has quite a strong link to the criminal law: no one who has been convicted for certain types of criminal offence may make a tender in any public contracting proceedings.[323]

Civil law plays a negligible role here,[324] since anti-corruption clauses are set out in invitations for public procurement procedures.[325] Nor do codes of conduct play an active role in the prevention of corruption in public procurement procedures.[326]

Transparency

Contracting authorities are obliged to produce an honest and well-established information plan for public inspection.[327] This is quite a useful practice in that it helps potential bidders to plan ahead and allows some retrospective monitoring of procurement, but in fact the plan has no binding force on authorities, and deviations from the awards and procedures advertised are permitted and usual in practice.[328] While we accept that the changing financial situation of authorities may necessitate alterations, we should still note that the wide range of permissible deviations from procurement plans significantly reduces the possibility of public supervisory control.

The law stipulates that all documents not containing business secrets should be made public. This rule applies especially to the final decision of the contracting party and to any contract concluded at the end of the process. It must be noted that there are still cases in which these publicity obligations are ignored.

Statistics and registers of contracts form part of the annual report by the Council to the Parliament and can be viewed on the Council's website.[329] Theoretically all public contracts are accessible with the exceptions of national and business secrets and most can be viewed and copied at the offices of the contracting authority. Despite this, it is not always easy in practice to obtain information about public contracts.

In order to reduce corruption and ensure transparency, there is a serious need to enhance the monitoring system for public procurement procedures and to impose high fines in cases of violation of the law. The present monitoring system is not effective enough, since the monitoring organisations are not appropriately equipped in terms of powers or resources.

Complaints/enforcement mechanisms

All disputes arising from public procurements fall within the exclusive competence of the Committee, which has a peculiar legal status. As we have already mentioned, the Committee cannot be considered fully independent of the Council. In some important inspects it is inferior to the Council because it makes its decisions in the name of the Council. Proceedings on complaints before the Committee must be completed within 40 days.

The appeals process is as follow: Committee – Administrative Court of 1st Instance – Administrative Court of 2nd Instance – Supreme Court (in certain cases). The company appealing may only sue in the civil courts if it has already won its case at the administrative level. In this case the company that should have won the tender can turn to the Metropolitan Civil Court – Court of 1st Instance – Court of 2nd Instance – Supreme Court (in certain cases). It is obvious that even if the company wins every lawsuit it may take three or five years to obtain a final decision. By then the original winner will have fulfilled the contract and gained the right to use this reference in the future. The extreme length of legal proceedings is well known, and so most losing companies do not even bother to turn to the Committee or subsequently to the courts. Every bidder knows that it is almost impossible to recover damages in practice. It can be concluded that there are almost no prospects for legal reparation, a situation which is hardly a deterrent to corruption.

Public contracting is believed to be a matter of governmental or state interest and so civil or social control mechanisms are not to the fore. Nonetheless, some slow but positive change is evident in this context, especially with the establishment of the Club and Foundation for the Culture of Public Procurement, which is active in organising professional meetings to disseminate European achievements and the requirements of fair public procurement.[330]

Relation to other sectors

The legislative and executive authorities on the one hand, and business organisations on the other, are closely connected to public contracting proceedings as actors in its bipolar system. This means the judiciary has a fundamental role in deciding on legal remedies against the decision of the Committee. Measures are needed to educate law enforcement officers to be competent to carry out effective investigations in cases of serious breach of public procurement regulations.

Ombudsman

Roles of institution as a pillar of the NIS

The Hungarian Constitution provides for the institution of general and specialised ombudsmen (parliamentary commissioners). Apart from the Parliamentary Commissioner for Civil Rights (ombudsman with general competence), there are two specialised ombudsmen: the Parliamentary Commissioner for National and Ethnic Minority Rights and the Parliamentary Commissioner for Data Protection and Freedom of Information. The Parliamentary Commissioners are responsible for investigating or initiating the investigation of cases involving the infringement of constitutional rights which come to their attention, and for initiating general or specific measures for their remedy.

The ombudsmen are elected as commissioners responsible exclusively to the Parliament.[331] The Act on Parliamentary Commissioners (hereinafter the Act) also declares that in the course of their proceedings, the ombudsmen shall be independent, and they shall take measures exclusively on

the basis of the Constitution and of the law.[332] The ombudsman-institutions can be said to operate independently of the executive power that they are supposed to review.–

One of the main guarantees of independence is the system of election of ombudsmen. According to the Constitution, the parliamentary commissioners are elected by a majority of two-thirds of the Members of Parliament, on the basis of a nomination by the President of the Republic.[333] An ombudsman is elected for six years and may be re-elected for one further term.[334] The requirement for a qualified (two-thirds) majority of the members of parliament and the fixed and long term of office (longer than the term of members of parliament) are considered traditional guarantees of independence. On the other hand, the possibility of re-election runs counter to this aim by giving incentives to the commissioners in office to secure the support of parliamentary parties for their re-election.

The Act prescribes that anyone who during the four years preceding the proposal for election has been a member of parliament, President of the Republic, member of the Constitutional Court, member of the Government, secretary of state, specialised secretary of state, member of the local government council, notary, public prosecutor, professional member of the armed forces, the police and the police organs, or the employee of a party, may not be elected as ombudsman.[335]

There are further preconditions of appointment designed to ensure that the selection is based on merit. According to the Act, the Parliament shall elect the ombudsman from among lawyers with outstanding theoretical knowledge or lawyers having at least ten years professional practice who have considerable experience in the conduct, supervision or scientific theory of proceedings concerning constitutional rights, and who are highly respected.[336] There are appropriate differences in the rules concerning the specialised ombudsmen. The Data Protection Commissioner is elected from among Hungarian citizens with a university degree, a clean criminal record and outstanding academic knowledge or at least ten years of professional practice, who are widely esteemed persons with significant experience either in conducting or supervising proceedings involving data protection or the scientific theory of data protection.[337]

In practice the election of ombudsmen shows that the selection process may in fact be subject to political influence by parties and/or may be counterproductive. The qualified (two-thirds) majority requirement means that a candidate can only be elected if the governing parties and at least part of the opposition support the candidate. Consequently the factions have either distributed the posts of general and specialised ombudsmen among themselves, or selected persons who are perceived as not presenting a threat to any of the parties. On the other hand, if the President of the Republic proposes a candidate without having first secured the unofficial agreement of political parties, the candidate may be rejected at the vote. The first situation occurred in 2001, and the second in 2007.

The independence of the ombudsman-institutions is further guaranteed by the rules of incompatibility, immunity and property declarations (see below).

The ombudsmen are elected for a fixed six-year period. Their mandate may be terminated before the expiry of the term of mandate, by death, resignation, declaration of conflict of interest, discharge and removal from office. In the case of declaration of conflict of interest, discharge and removal from office, the Parliament decides on the termination of the mandate. The votes of two thirds of members of parliament are necessary for termination. The mandate may be terminated by discharge if the ombudsman is unable to perform his/her duties arising from his/her mandate for more than ninety days through no fault of his/her own. The mandate may be terminated by removal from office if the ombudsman does not meet his/her duties arising from his/her mandate through his/her own fault, if s/he intentionally fails to comply with his/her obligation to make a property declaration, or intentionally makes an untruthful declaration on essential data or facts, or if s/he commits a criminal offence established by a final judgement or becomes unworthy of his/her office in any other way.[338]

To sum up, ombudsmen are not removable. Their mandate terminates only for the reasons stated above and set down in the Act. This guarantees that the ombudsman will not be removed for political reasons or because the results of his/her investigations have offended those in political power in the legislative body. In practice, the mandate of previous ombudsmen has been terminated either just by expiry of the term or by resignation. Three former ombudsmen have resigned before the expiry of the term in order to become, respectively, a member of the Constitutional Court, member of the Government and General Prosecutor.

According to the Act on ombudsman-institutions, the specialised ombudsmen have the right to take independent measures in their fields.[339] There are no hierarchical relations between the general and specialised ombudsmen.

As far as independence from both executive power and other ombudsman-institutions is concerned, the budgetary process is considered a weak point in law as well as in practice (see below).

Resources/structure

In 2006, the Parliamentary Commissioners' Office (the common office of the three ombudsmen) had a staff of 143.[340] The members of staff are civil servants (except for administrative and physical workers who are public employees), but their receive higher salaries than the average in the civil service. One important guarantee of independence is that ombudsmen have the power to appoint and dismiss their own staff.[341]

According to the Act on ombudsman-institutions, the operational costs of the ombudsman and of his/her office organisation, as well as the number of employees thereof shall be determined in a special chapter of the state budget.[342] In 2007, the budget of the Parliamentary Commissioners' Office was 1.4 billion HUF (5.4 million EUR).[343]

As indicated above, in respect of independence the process of determining the budget is the weak point of the regulations concerning ombudsman-institutions. The annual budget is approved by the Parliament in the form of an act. The budget bill is drawn up and introduced by the Government. There is no special element in the process whereby the ombudsmen could influence the chapter relating to their own office. Since the budget of the Parliamentary Commissioners' Office strongly depends on the Government, in this respect the ombudsmen' s independence could be vulnerable. Moreover, the structure of the budget endangers independence between the ombudsmen, as well. The chapter of the state budget includes the costs of all the three ombudsmen, but is controlled only by the general parliamentary commissioner, which means that the specialised ombudsmen could be vulnerable to pressure from the general commissioner.

The ombudsman-institutions have no access to off-the-books funds.

Accountability

As stated above, the Parliament elects the ombudsmen as commissioners responsible exclusively to itself. This responsibility means the obligation to make annual reports. According to the Act on Ombudsman-institutions, the ombudsmen must make an annual report to Parliament on their activities, and in this framework must report on the situation with regard to the protection of constitutional rights in connection with official proceedings, as well as on the reception of their initiatives, recommendations and on the results of these activities. The reports have to be submitted to Parliament by the end of the first quarter of the calendar year following the year concerned. The special ombudsmen must submit independent reports.[344]

The report is debated in committees as well as in plenary sessions in the Parliament, after which the Parliament votes on the acceptance of the report. The Parliament deals with the three separate reports of the three ombudsmen in each year. So far all annual reports have been approved at the end of this process. In 2007 the opposition expressed its unwillingness to support the general ombudsman's report,[345] but otherwise the adoption of reports has always been virtually unanimous.[346]

According to the constitution, any member of parliament may direct a question to the ombudsmen.[347] A question may be submitted in order to ask for information. Parliament does not vote to accept or reject the answer.

To sum up: these forms of accountability cannot lead to the termination of the mandate of ombudsmen. The mandate is protected, and the ombudsmen are not removable (see above).

Integrity mechanisms

According to the Act, the mandate of the ombudsmen is incompatible with any other state, local government, social or political office or mandate. They may not engage in any other gainful employment, and may not accept any remuneration for their other activities except for scientific, educational, artistic activities, activities falling under the protection of copyright, or proof-reader's and editor's activities. The ombudsmen may not be senior officials of an economic association or members of the supervisory board of such an association, nor a member of such an association with any obligation to co-operate with it personally. Beyond the tasks arising from their sphere of

authority, the ombudsmen may not pursue any political activity, and may not make any political declarations.[348] This is one of the strictest regulations on conflict of interest in the Hungarian legal system.

If a conflict of interest arises in connection with the person of the ombudsman in the course of his/her activity, s/he is obliged to resolve it. Parliament shall pronounce on the existence of conflicts of interest by a resolution (on the basis of a two-third majority of members of parliament). If the ombudsman does not resolve the conflict of interest within ten days of the passing of this resolution, the Parliament shall – upon the motion of any member of parliament – terminate the mandate of the ombudsman.[349]

The relevant statutory provisions of the Criminal Code can be applied to the misconduct of the ombudsmen and their staff (abuse of authority, bribery).[350]

The ombudsmen, in accordance with the regulations related to the Members of Parliament, must make assets declarations at the time of their election and subsequently every three years. The property declarations of the ombudsmen are public.[351] The mandate of an ombudsman may be terminated by his/her removal from office if the ombudsman intentionally fails to comply with the obligation to make an assets declaration or intentionally makes an untruthful declaration on essential data.[352] To date, all ombudsmen have complied with this regulation and their property declarations can be downloaded from the Parliament's website.

There are no post-employment restrictions. Indeed, in practice several former ombudsmen hold or have high-ranking posts after the termination of their mandate. Three ombudsmen resigned expressly in order to become, respectively, a member of the Constitutional Court[353] (elected by a majority of two-thirds of the votes of the Members of Parliament, based on the recommendation made by the Nominating Committee which consists of one member of each political party represented in the Parliament),[354] a member of the Government[355] (appointed and dismissed by the President of the Republic, based on the recommendation made by the Prime Minister)[356] or General Prosecutor[357] (elected by a majority of one-half of the votes of the Members of Parliament present, on the recommendation of the President of the Republic).[358] The provisions cited from the Constitution show that appointment to the latter posts depends on the governing parties. It is worth considering prescribing post-employment restrictions, especially in connection with posts where the appointment depends on governing parties.

Transparency

The Act prescribes that the annual report of the ombudsman should be published in the Official Gazette of Hungary after being approved by the Parliament.[359] Apart from the official publication, it is general practice to publish the annual reports in the form of a book as well as on the website[360] of the Parliamentary Commissioners' Office.

The law does not require publication of the recommendations made by the ombudsmen. The actual practice of the general and specialised ombudsmen differs. The Data Protection Ombudsman and the Minority Ombudsman publish only recommendations of greater importance on their web-sites. The Parliamentary Commissioner for Civil Rights maintains an online database where the public has access to all his/her recommendations (except for personal data which are deleted from them). In this respect the specialised ombudsmen' practice may be considered to fall short of the requirement for transparency in their work, a situation particularly regrettable in the case of the Data Protection Ombudsman who is also responsible for freedom of information.

Complaints/enforcement mechanisms

In the Hungarian legal system there are no provisions for whistle-blowing.

Given the absence of whistle-blower protection, the parliamentary commissioners' powers to investigate individual complaints against the authorities are especially important. Anybody may apply to the ombudsman if in his/her judgement s/he has suffered injury in consequence of the conduct of any authority or organ performing public service, or its decision (measure) taken in the course of the proceedings and/or its failure to act or decided properly in connection with his/her constitutional rights, or if a direct danger of such injury exists, provided that s/he has exhausted the available possibilities of administrative legal remedies and that no legal remedy is available to him/her.[361] The same regulation applies to the competence of the Minority Ombudsman, with the proviso that he/she protects the rights of national and ethnic minorities.[362] Anyone may report to the Data Protection Commissioner if s/he thinks his/her rights have been violated, or that there is

an imminent danger of such violation, in connection with the processing of his/her personal data or with the exercise of his/her right of access to data of public interest or data that is public on grounds of public interest, except when judicial proceedings are already pending concerning the case in question.[363]

According to the Act, the ombudsman may reject petitions submitted anonymously.[364] On the other hand, the act prescribes that if the person submitting the petition so requests, his/her identity should not be revealed by the ombudsman.[365] According to the Data Protection Act, no one should suffer any prejudice on grounds of his/her reporting to the Data Protection Commissioner. The person who has made the report should enjoy the same protection as persons making reports of public interest.[366] Interpreting these rules in harmony with the general regulations of the Data Protection Act, it would seem that a complainant's personal data needs to be treated in accordance with the principle of proportionality, i.e. may not be disclosed unless disclosure is necessary to resolve the case. The publication of reports and recommendations meets this requirement (personal data are deleted from them). In the actual process of handling complaints, however, the degree of disclosure of personal data depends on the sensitivity of the actual case.

As is typical for ombudsman-institutions, the recommendations of the Hungarian ombudsmen have no binding force. The authorities concerned are, however, obliged to inform the ombudsman whether or not they have accepted them, and the ombudsman annually reports to the Parliament as well as to the public on the effect of his/her recommendations. According to the annual reports, the proportion of recommendations accepted is high.[367] Exceptionally, the Data Protection Commissioner is entitled to take legally binding measures in the field of data protection, but the legislature has yet to provide an enforcement mechanism and so the commissioner has not exercised this right.

Hungarian ombudsman-institutions have no special mandate for fighting against corruption, but cases involving corruption may fall within their remit. The Parliamentary Commissioner for Data Protection and Freedom of Information protects the right to public access to data of public interest, and so has a key role in guaranteeing transparency.

Relationship to other pillars

As indicated above, the Data Protection Ombudsman has a key role since as commissioner for freedom of information s/he also guarantees transparency. The Data Protection Commissioner supervises compliance with the law on data of public interest, on request as well as ex officio. According to the Data Protection Act, data of public interest should be understood as any information or knowledge not falling under the definition of personal data, processed by an organ or person performing a state or local government function or other public function determined by law, or any information or knowledge pertaining to the activities of such an organ or person, recorded in any way or any form, irrespective of the manner of processing or its independent or collected character.[368] Organs performing public functions must ensure access to data of public interest processed by them, to anyone, with the exception of data classified as a state or service secret.[369] Public access to data of public interest may be further restricted by the confidentiality of business secrets.[370] So-called data public on grounds of public interest (any data not falling under the definition of data of public interest, the making public or accessibility of which is provided for by the Act on grounds of public interest),[371] such as salaries or property declarations at state organs, are also public in the same way as data of public interest.[372] Supervising the application of the law on the guarantees and restrictions of freedom of information, the Data Protection Ombudsman also promotes the transparency of organs performing public functions.

In practice, cases related to freedom of information are outnumbered by cases related to data protection. According to the critics, freedom of information issues have been pushed into the background in the ombudsman's practice. Nevertheless, the fact that the same ombudsman is responsible for data protection and freedom of information is one of the best models in respect of transparency. The rules on the types of data mentioned above show that data protection as well as freedom of information means an appropriate balance between transparency and confidentiality. In the Hungarian model the Commissioner must determine the balance in each case.

The ombudsman-institutions have a relationship with legislative as well as executive power. The ombudsmen are elected by and responsible exclusively to the Parliament; they are commissioners of the Parliament. As has already been indicated, the ombudsmen's annual reports are publicly debated in parliamentary committees and in plenary sessions, and the ombudsmen may attend and speak in the Parliament. The ombudsmen's relationship with the executive power is different in nature since the executive power is subject to the competence of ombudsman-institutions. In

harmony with the principle of division of power, the ombudsman-institutions have no competence relating to the courts. There is no appeal against the ombudsmen' decisions except those of the Data Protection Commissioner.

Government Anti-corruption Agencies

Roles of institutions as a pillar of the NIS

Anti-corruption activity is divided among several governmental agencies. One of them the Anti-corruption Co-ordination Board (the ACB) is entirely dedicated to combating corruption, and there are several bodies controlled by the government that pursue anti-corruption agendas among their other tasks. This chapter is devoted to the ACB, but touches upon the work of several other bodies to provide context for the role of the ACB. [373]

The National Investigation Office (the NIO) was set up in 2004 as a department of the National Police Headquarters. The NIO investigates high-profile types of crime such as organised crime, terrorism, international crime, IT crime, etc. The NIO has the authority to investigate crimes against the integrity of public life if committed by security-cleared civil servants, provided that the investigation does not fall under the exclusive authority of the Public Prosecutor.[374]

There are two national bodies charged with the overseeing public expenditure: the State Audit Office (SAO) and the Government Control Office (GCO). The Act on the SAO states that 'The State Audit Office is the supreme organ of state audit; it has general authority with regard to the scope of its duties defined in this Act.'. The preamble to the Act defines it as a 'supreme organ' in the sense that the other branches of power may not establish another body with same responsibilities, superior or parallel to the SAO. It must be said, however, that the predecessor of the GCO was established in 1993 with similar powers by the government and currently the GCO has almost the same responsibilities as the SAO with the proviso that the GCO shall not oversee bodies financed from the national budget but not subordinate to the government (such as Constitutional Court, Parliament, Office of Parliamentary Commissioners, etc.).

The GCO is a central authority, working on a national level and controlled by the Minister of Finance. The GCO's responsibilities consist of internal audit duties determined by the Government, monitoring subsidies originating from the European Regional Development Fund, the European Social Fund and the Cohesion Fund, and monitoring other EU and international subsidies.[375] The GCO is the Government's internal audit body, controlled by a minister, and therefore cannot be considered independent.[376] The president of the GCO must have at least five years' administrative and professional practice, five years' practice in a senior position and relevant higher educational background. The president of the GCO can be dismissed by the Minister of Finance. The GCO manages its own budget determined by the national budget in a separate title in the chapter of the Ministry of Finance. The GCO carries out the duties listed above by internal audit examinations in accordance with strategic and annual examination plans. The findings of the GCO are presented to the Government in audit reports that are considered as data for decision making. As the reports of the GCO are not published and are inaccessible even on freedom of information requests, the balance of pro-activity versus reactivity in the GCO's work cannot be established.[377]

In February 2004, the predecessor of the Anti-corruption Co-ordination Body, the Advisory Body for Public Life without Corruption (hereinafter Advisory Body), was established under the auspices of the cabinet and chairmanship of the state secretary for public funds (subsequently by the Minister of Justice).[378] The Advisory Body was responsible for exploring the environment of corruption, conducting studies and evaluating the results of anti-corruption activities, providing effective alternatives in anti- corruption work, preparing annual reports and an action plan for the government and maintaining contact with the United Nations Office on Drugs and Crime (UNODC), OECD, GRECO. The Advisory Body received technical support from the Ministry of Justice and consisted of representatives of Ministry of Justice, Ministry of Internal Affairs, State Secretariat of Public Funds, the GCO, Directorate General of Customs and Finance Guard, National Police Headquarters, National Security Office and the OLAF co-ordination office. The president of the State Audit Office and the Chief State Prosecutor were also invited to the body. The members of the Advisory Body did not receive any remuneration from public funds for their participation. The Advisory Body seems to have had a total of four meetings and according to the minutes of their meetings none of its goals were achieved, with most of the time spent discussing procedural questions.[379]

The Anti-corruption Co-ordination Body was set up by the Government and started its work on 6 September 2007.[380] The body is supposed to support governmental decision-making, offer expert opinions, draw up proposals and co-ordinating the fight against corruption. According to its mandate the ACB's main role is to explore the phenomenon of corruption in society and in the economy and propose effective instruments and methods against corruption mainly in the areas already identified by the governmental decree in 2001,[381] The ACB helps to draw up expert materials on anti-corruption strategy, organising its implementation, co-ordination and monitoring, and also co-ordinating the anti-corruption activities of its members, offering opinions on anti-corruption proposals and evaluating anti-corruption activities defined by short-term action plans. The ACB has no investigative powers and is not authorised to examine individual cases. The ACB cannot issue any decision with public authority. Its main duties are declared to be reviving anti-corruption work and stressing preventive and supra-legal measures.[382]

The ACB has eighteen members, six of them representatives of the government[383], six representing non-governmental public bodies[384] and six members who are either from NGOs or are individual experts.[385] The fact that the members of the ACB have equal rights and the composition of the body as described might be considered sufficient guarantee of its independence. The relevant decree does not require merit-based selection with regard to the representatives of the twelve state and public actors, and they are appointed by the head of their institutions on the basis of professional competencies. On the other hand, the decree requires the appointment of representatives of different professional, civil and other stake-holder organisations and individual experts in anti-corruption work with an international reputation, and these requirements have been met in the selection of the six non-state members. According to the rules of procedure, members of the ACB can be removed only if they fail to attend two consecutive meetings of the ACB without excusing themselves in advance. Since the ACB has only just started its work there is no experience with removal of members.

The ACB has a mandate to draft the government's anti-corruption strategy by the end of 2007. As of the date of writing, the first draft of the strategy has been discussed. Although it is too early to assess the work done in such a short period, it has to be noted that the comprehensive strategy in its current form fails to make a high priority of politically sensitive issues such as the revision of party financing regulations, and this may jeopardise the effectiveness of anti-corruption measures.

On 1 October 2007, the Government adopted a decree on a programme of 'New Order and Freedom' and entrusted the former state secretary of the Ministry of Justice and Law Enforcement as a ministerial Commissioner with its co-ordination.[386] The goal of the programme is to fulfil the Government's aims regarding order and security, social justice, 'creating value and quality' and meeting the priorities set by the EU's Hague Programme Action Plan for Freedom, Justice and Security. The decree lists the following as the Commissioner's main responsibilities: co-ordinating preparation of a bill on party financing, rules on salary and allowances for members of Parliament, fighting corruption and reforming administration, fighting the black market and illegal employment, improving traffic safety and drafting a law against racial hatred and discrimination. The list of duties is quite impressive, but there is nothing new about the means provided for realising them. All these issues have remained unsolved since the transition and it is unlikely that they can be tackled solely by government decree. Even though both organs were set up to fight corruption there is no visible co-operation or relationship between the ACB and the Commissioner.

Other governmental agencies exist to supervise different segments of the economy such as the Hungarian Competition Authority (HCA) and the Hungarian Financial Supervisory Authority (HFSA). The Hungarian Competition Authority was established in 1991 with the task of enforcing rules competition rules to the benefit of the public in a way that increases long-term consumer welfare and competitiveness at the same time. It is also supposed to promote competition in general, to create competition in areas of the market where it is lacking and to propose appropriate state regulation. The mission and duties of the Hungarian Financial Supervisory Authority (HFSA) are to ensure the reliable, continuous and transparent operation of the financial markets, to strengthen confidence in the financial markets, to promote the development of financial markets based on fair competition, to protect the legitimate interests of participants in the market, to help reduce risk to consumers by providing access to adequate information and to take an active role in eliminating financial crime.

Resources/structure

The ACB has a secretariat (within the Ministry of Justice and Law Enforcement [MJLE]) which is headed by the secretary of the ACB, who is a senior civil servant in the MJLE.[387] Members of the

ACB do not receive remuneration for their work but their expenses (travel, accommodation) can be covered by MJLE.

In the annual budget for the year 2007 the GCO received 1,227.9 (according to the website of the Office of the Prime Minister: 1,229.718) million HUF in total. The GCO had between 127 and 160 employees in 2006 and the first half of 2007. Its budget is determined by the Parliament in the annual budget, under a separate title in Ministry of Finance Chapter.

Accountability

The Minister of Justice and Law Enforcement is the president of the ACB and responsible for its work. He has responsibilities which correspond to the ordinary pattern in a parliamentary democracy. The ACB is an advisory body without powers and without responsibility of its own.[388] The ACB reports to the Government. The public is involved in the work of the ACB via the civil representatives as a requirement of the governmental decree. The work programme of the ACB also includes some public involvement by way of representative surveys on corruption.[389]

The SAO has the right to exercise power of oversight over the GCO and does so in practice. In 1992, 1998, 2002 and 2006 it carried out extensive audits of the GCO.[390] Since the GCO comes under the Minister of Finance, it is also subject to ministry oversight. According to Act LXIII of 1992 on the Protection of Personal Data and Public Access to Data of Public Interest, Freedom of Electronic Information Act and the Government Order 312/2006. (XII. 23.) on the Government Control Office, the public is also entitled to a measure of oversight over the GCO. On the other hand, these Acts of Parliament are not very effective with regard to the openness of the GCO's work and no information is published on GCO accountability issues inside the government structure.

By law the GCO reports to the Government via the minister. In its report on the GCO the SAO stated that the GCO had conducted its annual reports to the government and that ninety to ninety-five per cent of GCO's action plans drawn up on the basis of its audits had been implemented by the audited bodies.[391] There is no requirement for the GCO to consult the public.

Integrity mechanisms

There are no rules on conflicts of interest, rules on gifts and hospitalities or employment restrictions specifically for anti-corruption agencies. The representatives of government and the state in these agencies are subject to the regulations applicable to the public bodies which they represent. The ACB has no internal code of conduct, and these issues are defined by the rules of procedure.

The GCO has an internal Code of Conduct, but this does not contain special rules for GCO employees. Nonetheless, the general rules on internal auditors regarding conflict of interest, gifts and hospitality and post-employment restrictions apply to them.[392] No information exists on the effectiveness of these rules and adherence to restrictions.

Transparency

The government decree establishing the ACB defines its work as public, while its rules of procedure stipulate detailed rules in this regard. The meetings of the ACB are public: anyone can attend but must register in advance because space is limited in the meeting room.[393] The ACB may exceptionally hold meetings in camera when it is to handle classified data, personal data or preparatory data for government decisions. The issue of access to classified data in the case of members of the ACB without security clearance is not clarified. The ACB's reports, minutes, memos, background materials, and decisions must be published on the MJLE's website. The agenda and the dates of the meetings should be published as well. In practice the dates of the meetings are not published, making advance registration and attendance by members of the general public impossible, while only the memos of the meetings are made available on the Internet.

The GCO is not required to publish any of its reports on its own initiative and with rare exceptions none are published. The public has almost no access to the work of the GCO, although following a report by the Data Protection and Freedom of Information Commissioner who found several shortcomings in the freedom of information policy of GCO in 2005 a very limited amount of information has been published on the web-site of the Office of the Prime Minister. The most

question-begging incident recorded by the ombudsman occurred when a citizen asked the ombudsman if the reports of the GCO constituted information of public interest. The ombudsman started an investigation of the general freedom-of-information practices of the GCO and inquired about 'the annual number and types of audits conducted by GCO and its predecessors, as well as the organisations involved, which audits were concluded with a classified GCO report, and on which provisions of the Secrets Act or item of the GCO's list of office secret categories the classification was based in each case, and for how long, and whether and when the Government discussed the individual reports'. The president of the GCO refused to answer these questions, thus violating both Act LXIII of 1992 on the Protection of Personal Data and Public Access to Data of Public Interest and Act LIX of 1993 on the Parliamentary Commissioner for Civil Rights which defines the powers of the ombudsman.[394] At the end of 2006 the underlying legislation on the powers and functions of GCO was replaced, but while the freedom of information provisions were rewritten the disclosure practice has not changed.[395] The watchdog organisation, Hungarian Civil Liberties Union, requested a GCO report under the new rules but their request was refused[396] as has happened with all such requests ever since the GCO was founded.

Complaints/enforcement mechanisms

The ACB is primarily an advisory body and does not examine individual cases; individual complaints are forwarded to the responsible authorities.[397] There are therefore no special provisions on whistle-blowing on governmental misconduct in the ACB's specific sphere of activity. Indeed, there is no effective whistle-blower protection in Hungary at all. The constitutional right to petition is detailed in two paragraphs[398] in a 'salad act'.[399] Under these provisions everybody is entitled to file petitions, complaints, and proposals to any institution of the state (including ACB) and the body concerned shall deal with the petition/complaint and the petitioner/complainant receive a answer from the body within 30 days. The problem is that there are no means to enforce these legal provisions as there are no prescribed legal procedures and no sanctions if a body fails to fulfil its obligations under the act. The Criminal Code[400] provides for sanctions in the event of persecution of a public complainant. Discrimination or reprisals against a public complainant are offences punishable by a prison sentence of up to two years, community work or a fine. In practice no such criminal prosecutions have been brought; MJLE statistics 2001 and 2006 record no criminal proceedings initiated on these grounds.

Since there is no effective protection for whistle-blowers, there is also no adequate protection for the personal data of whistle-blowers or any other means for their protection against repressive measures. The situation of civil servants who work with classified information is made even more difficult by the fact that they face criminal charges if they disclose any classified data to any institution of the state that is not authorised to handle such information, e.g. the ACB is not authorised to handle classified data. Some members of ACB have the right to access classified information, but not all of them. Basically, this should not be a problem given that the ACB cannot investigate or examine individual cases, but it might be problematic if the ACB used government agency reports on corruption assessment and these documents contained classified information.

There is no internal complaints mechanism within the ACB as it is a quite small and non-hierarchical body, primarily takes its decisions by consensus and works in public.

If any suspicion of a crime, misdemeanour or violation of civil law, disciplinary issues or other forms of misconduct arises in the course of an audit, the president of the GCO is obliged to contact the head of the organisation under audit, or if s/he is involved, the head of the supervisory body must be contacted with a view to obtaining proper answers to the shortcomings discovered.[401] There is no accessible information on the use of this provision. There is no sign that people are afraid of complaining to the GCO for fear of retaliation, but equally there is no information on the GCO's complaint-handling mechanisms, the law offers no whistle-blower protection and the GCO has made no moves to promote the adoption of such measures.

The GCO has an internal audit mechanism as prescribed by law with regard to all internal audit bodies. As the GCO's reports are not published there is no available information on whether the GCO is targeting corruption in practice.

Relationship to other pillars

The ACB is to take on the task of creating a national corruption strategy and can thus be considered a key component of Hungary's NIS. Formally it is an advisory body to the Government

but given its composition it could play an important role going beyond the role of assisting the Government in its anti-corruption activities.

The role assigned to the GCO by law accords it no explicit duty to fight corruption, but the content of the GCO's work makes if potentially an essential body in that fight. Its reports could provide a basis for effective anti-corruption activities. Currently the lack of transparency of the GCO's work means that we do not know whether the reports are used by any agency of the state for this purpose or whether these resources are neglected. The GCO reports to the government but its relationship to other pillars is unclear. By law the GCO has to propose actions to the audited body, but the outcomes, the proposed actions and the reactions are not in the public realm.

Media

Roles of sector as a pillar of the NIS

As the public watchdog expected to expose the abuses of government and administration in addition to illegal and unethical actions by private individuals, the media constitute one of the most important sectors of society in the fight against corruption. Yet while the media participates in the battle against corruption by exposing the wrongdoing of corrupt politicians, public officials, business companies and citizens, even media institutions, editors and journalists can be subject to corruption.

Freedom of the press is *de jure* guaranteed in Hungary by the Constitution as well as several other key laws. As part of the basic freedoms guaranteed by the Constitution[402] everyone has the right to freely express his/her opinion, and to access and distribute information of public interest. The principal legal regulations relating specifically to the media can be found in Act II of 1986 on the Press (hereinafter: the Press Act), which was comprehensively amended at the time of the transition from communism to democracy. These constitutional and lower regulations are intended to ensure that the public has access to information from independent sources, and that therefore the press should enjoy great immunity and freedom from the state.

Any printed organ (newspaper, journal, etc.) must register with the Ministry of Education and Culture, but registration can only be rejected or rescinded if the organ in question commits a crime, or violates personal rights or public morals. The registration procedure is more or less automatic, with no need to deposit any sum as caution or security. The establishment of electronic media (radio and television stations with terrestrial broadcasting) is a matter of open tender because it requires use of air frequencies, which are in the public domain.

Television channels are not allowed to record the sessions of the general assembly of Parliament directly. Instead they have to buy edited recordings made by the exclusive cameras operated by the Parliament – in line with the Act I of 1996 on Radio and Television Act (hereinafter the Media Act).[403] (Such restrictions do not exist for photographers.) Despite objections, the Constitutional Court rules that this regulation was not contrary to the Constitution.[404] This decision empowers the Parliament to intervene in editing (or as some would say to exercise *de facto* censorship) and limits the transparency of a public institution rather than protecting the freedom of the press.[405]

The laws on freedom of information are often not fully implemented by public institutions and local government authorities. Statistical data is not available on how often public offices satisfy requests for data, or how many legal actions have been brought on this question – in that sense, we have no clear picture of the real practice of freedom of information in Hungary.[406] NGOs have been active and successful in this field. Our own research indicates only a few public cases in which journalists, with the support of their media institutions, have sued public institutions to ensure access to information. Such cases tend to be protracted and would not therefore serve the immediate purposes of data gathering. Moreover, many journalists would not risk their well established contacts with news sources by the unfriendly act of suing the same officials for withholding information.

In the course of their work, journalists tend to face lack of interest rather than intimidation. Central and local authorities regularly reject challenges to disclose public information, but public opinion often shows little concern. Journalists regularly use leaks from inside government and public institutions, but they are aware of the pitfalls of leaked information, i.e., that the leaker in control of the story. Here confidentiality seems to be the accepted rule and no prosecution has been brought against the press to force it to reveal sources.

Liability of the press for information published is quite strict in Hungary. In fact, most of those interviewed for this study wanted to see this liability reduced as a way of promoting the free flow of information. Although Act LXV of 1995 on State and Service Secrets provides effective protection for national and international secrets, such data is classified for what many regard as excessively long periods (even 50-90 years) that do not serve the need for the free flow of public information. The authorities also classify information in circumstances where the necessity is unclear and the circumstances may even give rise to suspicion that they are deliberately hiding evidence of crime and corruption. For example, during the 1990s the chemical treatment of heating oil to turn it into petrol became a major illegal business involving organised crime and probably also customs officials and government circles. The papers of the Parliamentary Committee that examined the issue were classified until 2078.

Freedom of the press is also limited by a peculiar interpretation of journalistic liability. According to the practice of the courts the media are liable for rectification, including damages, if they accurately report the statement of a third party that later proves to be false. Many journalists and experts consider this legal practice to be absurd and harmful to freedom of communication. This 'objective' liability of the press for reporting is regarded as a serious problem.[407]

For the protection of privacy, Art. 79. of the Civil Code prescribes a rectification procedure in cases where the media (printed or electronic) has published false information. This procedure may then oblige the press to publish a declaration of the falsity of the former statements. Besides this legal procedure, suing for damages is becoming more and more popular among politicians and other public figures. Although the Constitutional Court has limited rights of privacy for public officials in its 36/1994. (VI. 24.) AB decision – partially adopting the Sullivan Rules of the US Supreme Court suggesting that public officials must bear more public criticism than ordinary citizens – the practice of the politicians is not fully in line with the intentions of the Constitutional Court. It is quite common for politicians and other public officials to initiate civil litigation and sue for damages.

According to legal regulations, the media is free to operate independently of political or business influence. Censorship in its classical sense ceased to exist in 1990 with the transition to democracy. On the other hand. in a recent survey the majority of journalists said that they sometimes experience censorship or self-censorship.[408] Some journalists see the pressure from the media owner as a form of censorship. Sometimes this takes the form of direct instructions from the owner or the editor, but often journalists practice self-censorship on the basis of awareness of owners' preferences. News editors at the national commercial television and radio stations say that they experience no direct checking or censorship on their work, but top managers of public service media have to struggle with government officials who try to influence the content of news.

In a representative survey of Hungarian journalists[409] 26 per cent said they did not feel any pressure, 20 per cent reported some, while 30 per cent felt there was a lot of outside pressure in their work. Journalists are not protected by law from pressure towards bias exercised by owners. Nor are media legally protected from the pressure of advertisers who may withdraw their business if subject to criticism by journalists.

In some cases, private companies try to intimidate the press by threatening or instigating litigation if articles critical of their activities are published. Some of our interviewees mentioned the power of advertisers to create difficulties if material running counter to their image is printed. Sales/advertisement and editorial offices are not necessarily strictly separated (especially in the case of smaller circulation weeklies).

This kind of (self-)censorship and abuse of the legal system (and not the deficiency of the legal regulations as such) are among the reasons why investigative journalism is not flourishing in Hungary. Other major causes are lack of social demand and the costs of investigative journalism. Some weekly newspapers (like *Élet és Irodalom* and *Magyar Narancs*) with a relatively small circulation regularly publish articles on corrupt practices by state and party leaders, and high executives. These face neither censorship nor pressure from the owner of the press, since they are self-owned by the editorial board. Nonetheless, they are losing their best journalists for financial reasons. Spending months of an investigation with no guarantee that there will be newsworthy results is still a luxury that most owners cannot afford.

The news programmes of mainstream commercial television are not active in the investigative field. In most cases they follow the stories broken by the printed press, and only occasionally come up with stories investigated by their own staff. They speak of investigative journalism in the case of scandals or controversial cases, but this is usually more a matter of publicising leaked information or documents than active investigation by a staff journalist.[410]

Corruption issues are generally covered in the Hungarian media but the space devoted to them remains very unbalanced across the different media organs. The media focuses more on political scandals, searching for and emphasising the political connections involved in corporate corruption.

The national political dailies are somewhat partisan and biased in their coverage of political issues. They work hard to find compromising situations on the political side that they oppose and try to blow these up into major political scandals, but minimise coverage of scandals on the political side that they support. As a rule, they do not conduct investigations of corruption cases on their political side, but report them only in brief, official-sounding items. They may even simply fail to report important political news about such cases on the front page.

Associations of journalists are still organised along partisan lines (although they are not such active participants in political fights as they were in the last decade).[411] They include the Association of Hungarian Journalists (MÚOSZ, the largest, former monopoly organisation), the Community of Hungarian Journalists (MÚK), the Association of Independent Journalists, the Hungarian Catholic Journalists' Association (MAKUSZ), and Association of Protestant Journalists (PRÚSZ). Currently they mainly limit their external activities to making politically coloured statements and publishing open letters on some issues when journalists or photographers are hindered, menaced or physically harmed in the course of their work. The political partisanship of these professional organisations reduces their credibility and weight in the representation of their professional interests. Their standing has been damaged still further by cases such as that of the editor of the leading left-centre daily *Népszabadság.* Having just resigned because of an ethically and professionally dubious decision (publication of a letter against the opposition signed by the nuclear scientist Edward Teller, although Teller had written no such thing), he has still been elected president of MÚOSZ, the largest professional organisation.

The professional journalists' organisations and other media self-regulatory bodies are not pioneers when it comes to taking up problems of political or corporate pressure on journalists, corrupt PR articles or hidden advertisements.

Resources/structure

In Hungary the media system may be divided into three sectors: a) mainstream commercial media, b) public service media and c) partisan media sector. These three sectors of the media system function according to different principles.

A) The mainstream commercial media enjoys the largest market and audience share. This sector is characterised by non-partisanship, tabloidisation, info-tainment, and declining political bias or even engagement. The sector consists of the national commercial television and radio channels, regional daily newspapers, national tabloid dailies, and magazines. Apart from, the public service media, all other major commercial media, on-line media and large majority of the printed press are private.[412] The national commercial radio and television channels are not politically oriented; they usually display no commitment to any political side and their news and current affairs programmes tend to be what is known as info-tainment.[413] Large circulation regional dailies (the second most important media after commercial television) are operated as relatively neutral family papers.

Media ownership is quite concentrated in Hungary. Most newspapers and commercial media are owned by foreign, typically German or other Western European (or American) companies.

The Media Act regulates ownership issues. One market actor may own only a) one national, or b) two regional and four local, or c) 12 local broadcasting channels/stations. In practice, the two national commercial television channels (RTL Klub and TV2) have a 60-per cent market share (and an approximately 90-per cent share in the advertising market). The two leading commercial radios (Danubius and Sláger Radio) have an approximately 50-per cent market share (and an approximately 60-per cent advertising) share. The 18 large-circulation regional dailies are published by only four foreign publishing houses.[414]

There are also a number of restrictions on cross ownership of printed and electronic media. These regulations are implemented by the NRTB (National Radio and Television Board) and the Hungarian Competition Authority. None of the media companies in Hungary are quoted on the stock exchange but the broadcasters are obliged to notify the NRTB about changes in ownership.

B) Three public service media institutions constitute the second sector of the Hungarian media system: Hungarian Television and Duna Television (targeting Hungarian minorities abroad) with two channels each, and Hungarian Radio with three channels.

In relation to these public broadcasters, control and pressure exercised by governing parties is much less visible now than in the 1990s.

Each public media broadcaster has its supervisory body (Board of Trustees), i.e., the Magyar Televízió Public Foundation, the Magyar Rádió Public Foundation and the Hungária Televízió Public Foundation (for Duna Television), respectively. The members of each Board of Trustees are elected by the Parliament and nominated on a 50-50 per cent basis by the government side and the opposition. These are somewhat political bodies in which each member represents the preferences of his or her own party. The politicisation of these boards is especially noteworthy in the light of the fact that the boards elect the general managers (presidents) of all three public media.

The dependence of public television on the government was recently increased by the abolition of the television licence fee in 2002. This fee, paid by viewers in line with standard Western European practice, had ensured some stability and basis for forward budget planning in funding for public television. Now in practice the government decides directly on the greater part of public television funding.

According to the Media Act (2), 'Public service broadcasters and broadcasters of public programming shall provide information on domestic and foreign events which may be of interest for the general public, ... including different opinions, on a regular basis, in a comprehensive, impartial, authentic and precise manner'. A recent analysis conducted by the NRTB in June 2007 found that opposing political opinions were generally given relatively extensive airspace in news items in the period analysed. In the case of six programmes the representation of opposing views was less than 10 per cent, but this does not mean they did not feature opposite opinions at all. Programmes often follow the practice of ensuring a balance of different opinions in the programme flow.[415]

A recent analysis by the NRTB showed that the parliamentary opposition enjoyed about 34 per cent of airtime in the public service media news (the government coalition enjoyed 62 per cent), 35 per cent of all speakers in this media segment came from the parliamentary opposition, but this rate was more than 50 per cent in the MTV midday news programme and only less than 30 per cent in the Hungarian Radio in the same programme time.[416]

C) The partisan media sector includes partisan national daily and weekly newspapers, cable television channels and radio channels. This sector is characterised by a low market share, and a politically divided community of journalists.[417] In the case of the partisan media the political sympathies of the owners are very easy to identify. In this sector, the control exercised by the owner usually coincides with the political preferences of the editors and journalists who have strong ideological motivations to promote one side.

Assessments of media performance also differ depending on political side. Journalists and experts on the political right consider the Hungarian media (even Hungarian Television and the two national commercial television channels) to be biased toward the left-liberal coalition, and feel that the right is under-represented in the media market.[418]

According to a representative survey of audience opinions published in January 2007,[419] half of the respondents thought that radio and television channels in Hungary were biased. Hír Televízió was most often mentioned specifically (48 per cent) as a biased broadcaster, followed by ATV (26 per cent), Hungarian Television (23 per cent), TV2 (14 per cent), RTL Klub (14 per cent), Duna TV (2 per cent), Kossuth (2 per cent) and Klub rádió (2 per cent). Among the respondents in general, 42 per cent felt one or other media organisation was explicitly committed to a political side. In another survey,[420] 22 per cent of the audience of Hungarian Television called it very biased, and 34-34 per cent slightly biased or not not biased (10 per cent gave 'don't know' answers).

According to the latest content analysis of the National Radio and Television Board (hereinafter NRTB)[421], the government coalition is over-represented in terms of electronic media coverage. In terms of speakers featured live on news programmes, the coalition had a 69.1-per cent share in public and a 60.9-per cent share in the output of commercial electronic channels. (Their share of speaking time was 66.2 per cent on the public, and 59.7 per cent on the commercial electronic media.) This was evident on Hungarian Radio after its programming changes in 2007. In June 2007 speakers on the government side had a 62-per cent share. The opposite side had a 37.9-per cent share, and the representation of non-parliamentary parties remained very low. Interestingly, the opposition side were given the most speaking time in the midday news programme of Hungarian Television, while the government representation in the public service media is 64.6 per cent (the opposite has 35.3 per cent). With commercial broadcasters the ratio was 60.5-39.5 per cent in favour of the coalition.

The establishment of electronic media that utilise terrestrial broadcasting must be based on open tender because of the use of frequencies, which are in the public domain. The rules of such tenders are set out in the Media Act, and the NRTB is the authority that conducts the tender competition and decides on the result. Although the criteria and procedures that the media licensing authority must apply are established and seem to be independent and competitive, the procedures are still insufficiently transparent. The Act on Publicity of Information means that the process of decision-making on licensing need not be subject to public scrutiny. In practice, application of the written regulations has not prevented the making of questionable and even scandalous decisions based on party deals, and with no legal consequences, in both cycles of allocation of frequencies for national commercial television (1996 and 2004). This legal situation has been criticised by many journalists, media experts and also by the Data Protection Commissioner.[422]

Several examples show that political and economic interference seriously affects key decisions on the media. In the first cycle of frequency distribution in 1996 the NRTB received tenders for commercial television broadcasting licences. The conditions of the competition stipulated that the broadcasting rights should be awarded to the two highest bidders provided that they met quality conditions. The highest price was offered by the bidder CME, but the two winners were the consortia led by RTL and SBS, respectively. The decision of the NRTB was in obvious contravention of its own procedures and created a major scandal. After a legal action brought by CME in 1997 the Supreme Court stated that the NRTB had violated the rules of procedure, but CME withdrew its action when the tender winner SBS bought off CME's stakes in Hungary in a somewhat peculiar business move. As a result, the Hungarian State did not have to pay the huge compensation due to CME.[423] In 1997, the two winners of the tender, TV2 (owned by a consortium led by SBS) and RTL Klub (M-RTL Rt.) began to broadcast.

In 2004 these two national commercial TV channels applied for the extension of their concession without a new tender. This was in line with Art. 107 of Media Act which permits such an application seven years after the first licensing, but the Act also states that no extension shall be granted in cases of serious and repeated breach of the concession contract. After a short debate initiated by the prosecutor general, who claimed that both licensees and both channels had seriously and repeatedly violated their contract concessions, the concessions for both commercial channels were extended. Indeed, the Parliament adopted the extension without raising the concession/broadcasting fee and without binding the licensees to conduct the switchover to digital imposed by the law. The whole affair generated wide debates and raised the issue of corruption.

The Law on Digital Switchover (adopted by a two-thirds parliamentary majority) reflects the expectations of the two largest parliamentary parties. The law stipulates that beside the three public service television channels, at least two television broadcasters with news and public life programmes, operating at least for four years. This measure was obviously adopted for the benefit of the Fidesz-friendly Hír TV on the right and the MSZP-friendly ATV on the left.

This type of dealing is underlined and re-enforced by the way that the NRTB distributes 240 million HUF (mostly without tenders) to companies and experts close to Fidesz and MSZP. Hír TV and ATV received nearly 100 million HUF from this sum to establish the technical capacity necessary for the switch to digital, but even others in receipt of these funds can be linked to the party delegates on the NRTB.[424]

St. Plusz Ltd., an independent private company which produces the morning show Nap-kelte for Hungarian public television, has earned 484,5 million HUF in government tenders and order since 2000. The news portal [origo] discovered that this company had contracts with a number of ministries under all the three governments of the period. The company makes bids for state contracts and usually wins. One minister stated that the choice had always been made on merit, i.e. that the company had offered the best PR possibilities at the best price. The company's co-operative ventures with government became even more numerous in campaign periods. The company was also accused of getting money for doing interviews from utility service companies of Budapest. Nap-kelte is now being boycotted by Fidesz politicians who claim that the programme is biased towards socialists and free democrats.[425]

In relation to another aspect of threat to the independence and objectivity of journalism, we can note that the appearance of politics outside editorial contents is unusual in Hungary. Political advertising is regulated by law during election campaign periods under the terms of the Act on Radio and Television and Act C of 1997 on Election Procedures. Under these regulations media broadcasters may publicise political advertisements on the basis of equal conditions for candidates and candidate organisations, but none of them, not even public broadcasters are obliged to publish political advertisements. This means that no (free or paid) coverage is assured for parties and

candidates in the course of campaigns or at other times. In practice the representatives of the large media outlets sit down together to harmonise the amount of political advertising carried during campaigns, and they take care to avoid situations that might expose them to charges of bias. (For this reason RTL Klub refused to carry any political advertisements in the recent campaign period.) For regional and local media the regional associations issue recommendations on handling political advertisements.

At the same time, politicians claim that discounts on advertising (sometimes as much as 70 per cent below list price on TV) allow them to keep within the official campaign spending limits. The huge difference between these prices and ordinary rates raises suspicions that in practice everyone is shutting their eyes to disguised party financing, for what else could explain discounts unobtainable for anyone else? It is not impossible that a business company might just support its favoured party in this way (thus side-stepping the requirement for sources of donations over 500,000 HUF to be named in party books), but such favours are unlikely to remain mere generous one-sided gestures: the future counter-services anticipated might be government orders or advantages in frequency tenders.[426] (see 'Political Parties'.)

Although average salaries in the media have risen faster than inflation in recent years[427], journalists are still underpaid. Their net monthly salary (110,000 HUF/EUR 440) [428] was lower than the average net monthly salary of white-collar employees (155 172 HUF/EUR 620) in the private sector or the public sector (133 517 HUF/EUR 535)[429] in 2006. In a recent survey 74 per cent of the journalists said that they were moderately or relatively satisfied with their financial situation[430], but that can be explained by the fringe benefits (phone use, and for editors in higher position/reporters on the stories, use of car) which usually come with the job. The salaries are relatively higher in the national media, on weeklies, in online media and outlets based in Budapest, with the lowest salaries reported at radios and periodicals.

Accountability

The major media supervisory body is the NRTB, which is an independent legal entity under the supervision of Parliament. Its members are nominated by the parliamentary parties in equal proportions (each faction may nominate one member, but if there is only one faction on the governing side or the opposition side, then that faction may nominate two members) and in fact they represent political party positions. As a result, the NRTB is a heavily politicised body, dominated by party deals and not by a consistent vision of public policy.

In the case of public service broadcasters the boards of trustees of their public foundations have the right of supervision of over their financial management of the public foundation, while the financial management of public foundations is subject to the control of the State Audit Office. The rules on technical frequency management are overseen by the National Communications Authority.

The main rules of broadcasting covered by the Media Act concern respect for the constitutional order, respect for human rights, and the obligation not to harm the rights of individuals, genders, peoples, nations, national, ethnic, linguistic and other minorities, and church or religious groups, as well as the protection of minors. There are requirements concerning programme structure, advertising and sponsorship and the broadcasting of public events. According to the Act, the NRTB is supposed to preserve and promote freedom of speech, and monitor the enforcement of the constitutional principles of freedom of the press. The NRTB operates a Complaints Committee for the investigation of cases reported to it.

One of the most important principles and requirements is the requirement for balanced information, the lack or infringement of which is often the source of protests to the NRTB Complaints Committee. Indeed, most of the complaints concern breach of balanced information provision, for example by the omission of dissenting opinions. There are no rules in the Media Act on the proportion of time to be assured to each opinion. The NRTB issued recommendations for the 2002 and 2006 election campaign to the effect that one-third of the time be given to the two main political sides and the others, respectively[431] but there is no rule on whether this should be respected within one programme unit or in the whole programme schedule of one media outlet overall. At the same time, the decisions of the NRTB suggest that editors should present an opposite opinion alongside each governmental view.[432] Most of the complaints on imbalance relate to political appearances.

The Complaints Committee has been criticised on several grounds. First, restrictions on who may submit complaints as well as the deadlines for complaint are very narrow. The Committee investigates individual cases submitted by the person personally concerned.[433] This results in a situation in which many complaints are dismissed without investigation. The Complaints

Committee has also been criticised for not publicising all of its decisions, which greatly reduces its efficiency – especially as publicity is the only sanction it can impose on broadcasters. Furthermore, the Complaints Committee has been criticised for a lack of consistency in its decisions. Each complaint is discussed and judged by a three-member panel which itself brings partisan aspects to the discussion of complaints. Members of the Committee are elected by the NRTB, whose members are also delegated by parties in Parliament, and regular changes in the composition of the panel result in non-congruent decisions.

In Hungary there are no audience associations (viewers' organisation, press council, etc.) to oversee the operation or the contents of the media. The representation of political parties overwhelms media supervision in general and supervision of public broadcasters in particular.

Every member of the NRTB is a political appointee, representing specific parties in Parliament. The Board is elected by Parliament by a simple majority of parliamentary votes for a term of four years. The Board must consist of at least five persons. The Chairman of the Board is nominated jointly by the President of the Republic and the Prime Minister, while the other members are nominated by the parliamentary groups. Each group may nominate one member. Even though the members of the Board may not pursue political activities and may not make political statements on behalf of a party, the system results in highly politicised discussions instead of public policy-making guided by rational considerations and social needs. It also results in political deals between major parties concerning frequency distribution, financial aid for broadcasters, and digitalisation of media.

In the case of public service media, both the Boards of Hungarian Television and Hungarian Radio include permanent members and changing members. Each permanent member is a political appointee of parties represented in Parliament (just as in the case of NRTB). This leads to extreme politicisation of board decisions over the selection of presidents (general managers) and vice-presidents of public media. Furthermore, board members representing governing parties often try to pressure media presidents into following pro-government editorial policies. In the case of Hungarian Television, several sources suggest that Board members even pressure management into making contracts with their clients for external or internal programme production (including lucrative entertainment programmes).

Representatives of civil society organisations (NGOs in the areas of health, youth, environment, religion etc.) are selected only as temporary members of public media boards. As many NGOs register for this role, they are chosen by a lottery system. NGO members of the Board participate only in some key decisions (e.g. election of media presidents). Experience shows that such decisions are extremely politicised and NGOs take political decisions as a result of pressure from parties.

This autumn, Hungary is in the middle of a comprehensive audio-visual law reform, which started in October 2006 with the publication of the draft of the government's Digital Switchover Strategy (DSS) intended for public debate. One of the three basic areas of the law reform is media regulation (content regulation). In September 2007, the Hungarian government also published the draft National Audio-visual Media Strategy ("NAMS") for public discussion.[434] The DSS proposes a two-tier legislative solution. According to the government's current plans, as a first tier of reform the content regulation of programme dissemination should be developed together with the conditions for entering the market and a new media supervisory system. The next tier will be the creation of a separate act on public service broadcasting. The current institutional system of NRTB will most be probably be radically reformed in the near future in order to create a regulatory authority adapted to the current digital media age.

A recent decision of the Constitutional Court means that the NRTB no longer has the right to act as an authority toward contracted radio and television companies, and so it has no right to fine them as of 1 January 2008. Even the forthcoming tendering procedures are not being led by the NRTB as its members' mandates expire by end of February 2008. In the meantime there is a five-party process on the new media regulation, as Fidesz is emphasising the need for new media regulation before the announcement of the results of the digital tenders.[435]

Integrity mechanisms

Ethical standards are formulated and monitored by the professional organisations and the media actors themselves. Journalists' organisations have established their own codes of ethics and the major media have their own rules and requirements to be observed by the staff. The professional journalists' organisations have committees of ethics that oversee observation of the rules in the codes. Four press organisations (the Association of Hungarian Journalists, the Community of

Hungarian Journalists, the Hungarian Catholic Journalists' Association of the Press and the Press Trade Union) have worked out common basic ethic principles to maintain the ethical functioning of the Hungarian press. On the basis of this code, the Co-operative Ethics Body of the four organisations also formulates its position in certain particular ethical cases. The Union of Hungarian Content Providers and two organisations of Hungarian journalists in Romania have also signed up to the Principles. Codes of Ethics are generally too permissive and they are not properly implemented.

Another initiative, the Visegrád Protocol, includes ethic guidelines for Hungarian radio and television journalists using BBC guidelines as a model, and started in 2000. Taking this protocol as a base, the Independent Media Centre and a group of journalists recently worked out a draft for a self-regulatory code of ethics that could be generally applicable by the Hungarian media organisations. The draft[436] has been presented for professional debate and this is currently underway in the autumn of 2007.

A third example of self-regulation has been the establishment of the Association of Hungarian Content Providers in 2001 with the aim establishing rules on Internet content (including news production and publication) on a self-regulation basis with the least possible government interference.

The rules on conflict of interest for journalists and editors, and on gifts, are regulated in the codes of the media organisations. The Public Service Broadcasting Regulations of the public broadcasters' state rules on avoiding political, advertising, employment and business conflict of interest for its staff. The rules on gifts and hospitality are included in the these provisions, since employees may not accept gifts or services disproportionate to the service rendered by the employee.[437] The large commercial television companies and the important business weeklies have strict regulations on these questions, but most of the journalists work or should work by unwritten rules.[438]

Nonetheless, it is common practice for companies to expensive gifts and travel invitations to journalists, and in most cases journalists accept them. We have not found documented evidence, but in our interviews several journalists referred to concrete cases. In the literature on self-regulation and journalistic ethics there is also discussion of the view that it is bad for Hungarian journalism, as a pillar in the battle against corruption, that rumours are spreading on easily corruptible journalists. There is no hard evidence, but in elite circles there is a widespread view that that every journalist has his price. The fact that such rumours can flourish indicates serious problems relating to the social position and the credibility of Hungarian journalism.[439]

Transparency

According to the Act on the Press, journalists have a right to withhold the identity of their sources. If the information concerns crime, this right is curtailed by the Criminal Code, but we are not aware of any cases of this kind in recent years.

No information exists on any cases in which a politically committed person or organisation required donations or reduced rates from a media organisation. In fact, they have no need to do so as the biased press and electronic media is in the hands of committed interest groups and persons or else the media outlets support a particular political side themselves in editorial contents.

Complaints/enforcement mechanisms

Among the complaints of journalists, two issues should be discussed: physical threats and violence against journalists on the one hand, and litigation against journalists.

In a representative survey conducted in 2006[440] 36 per cent of the respondent journalists said that they had been threatened (meaning that a journalists receives a call telling him/her what will happened to him/ her if s/he writes or does not write about a certain subject).[441] Once or more times. On the other hand, the physical safety of journalists seems to have been threatened only in some exceptional cases, On 24 June 2007 an investigative journalist (Irén Kármán) 2007 was found tied up and beaten on the banks of the Danube after allededly being kidnapped by unknown assailants. Irén Kármán published a book last year on corrupt oil dealings in the 1990s. A police spokesman said that no evidence had come to light that would suggest Kármán was attacked because of her work.[442] The case is still being investigated.

In 1999 a hand grenade blast occurred in the building housing the headquarters of the weekly Élet és Irodalom. The weekly had produced a number of reports on shady corruption cases, such as the Postabank issue or the financial links between the Orban family and Fidesz.[443]

In the autumn of 2006 a number of press workers were assaulted when reporting on the rioting in Budapest. Some of them complained about being hit by rubber bullets despite of visible press emblems on their clothes.

Other cases of violence against journalists related to street violence by extreme right-wing rioters (unrelated to investigations on corruption). In August 2007 a journalist of the Hungarian News Agency was threatened with murder and received a number of abusive messages, and later an extreme right-wing, racist web-site (www.kuruc.info) published his photo and contact details. The journalist often reported street demonstrations, mass meetings and affrays, which means that he is known for the participants of these events.[444] The Prime Minister urged legal measures to curtail such publications. Restrictions of this kind to limit the accessibility of a web site (even one operating from abroad) raise questions about censorship, but would also be related to the protection of personal data and possible modification of the Civil Code on hate speech.[445]

On the other side, despite the fact that journalists are very cautious because of the penalties for defamation, in recent years they have been sued by politicians on a massive scale when the media has shown the latter in an unfavourable light. There are about a thousand such actions every year in Hungary and the number is growing.[446] Politicians use such cases as tools for political communication. Frequently the accuracy and reliability of the main content of an article (e.g. about corruption of leading politicians) is not challenged, but a minor issue is picked as the subject of an action and judged by the court. The communication value of such cases is then exploited by politicians to mislead audiences, since when they win on this kind of side issue they can present the judgement as a vindication of their innocence in general. The verdicts in such cases are often recycled in the partisan media sector to prove the innocence of politicians on 'our side'.

Relationship to other pillars

As the media are key actors in the battle against corruption, it is desirable that the media should not have too close a relationship to the other pillars of the country's NIS. In Hungary the media possess the basic legal foundation, institutions, and ownership structure to be an independent pillar, but excessively close relationships with political parties cast doubt on their integrity and make it hard for the, to take part effectively and authentically in the fight for a cleaner public life.

The only segment that needs to be more substantially involved in media oversight mechanisms is that of the civil sector and audience organisations. Currently there are representatives of civil organisations on the boards of trustees of public service media at the moment, but most of them can be identified as partisan. Civil organisations might potentially play an important role e.g. in audience oversight over the media.

In terms of the relationship between media and corrupt government-business relations, the partisan media system takes an active part against corruption in the sense that journalists and media organisations try to expose wrongdoing by the political side that they oppose. The vulnerability of this system becomes obvious, however, when both major political sides become corrupt. In such cases, the issue becomes a taboo for all sides in the partisan media system.

In the Strabag case the Hungarian governing parties were accused of illegally receiving millions of Euros from a multinational construction building company. Instead of a huge scandal, the issue disappeared from the Hungarian after some days.[447] On the one hand, the left-wing media was not very active in investigating the issue, and basically just reported the opinions of government officials. On the other hand Strabag advertisements soon appeared in right-wing media (Magyar Nemzet, Hír TV), which then also quickly dropped the issue as well.[448]

Civil Society

Roles of sector as a pillar of the NIS

Article 63 of the Constitution guarantees the right of association for purposes not prohibited by law. Acts on the right to freedom of association[449], on the right of assembly[450] and freedom of conscience, religion and the churches[451] enshrine fundamental rights for individuals. The Civil Code regulates the formation of foundations.

The freedom of association allows private individuals, legal personalities and organisations without legal personality to create civil organisations and to operate them in accordance with the objectives of the organisation and the intentions of the founding members. The law only allows membership in trade unions by private individuals. The act lays out the content and the legal form that must be followed when establishing a civil organisation. The following are required: ten founding members stating the establishment of the organisation, adoption of foundational statutes and election of an administrative body.

Several laws and regulations control the formation and operation of associations, foundations, public law foundations, public benefit companies, churches and in certain cases public law associations that are widely accepted as civil society organisations.[452] However, the term 'civil organisations' was legally contained in the Act on the National Civil Fund only in 2003.[453] In some cases, especially in connection to European Union regulations and actions, trade unions are also defined as civil entities.

In 2006 there were several changes in the legislation:

1) Any public benefit company that was not obliged to have a 'public benefit status'[454], although it may state so in name, should cease to exist or should be operated as a non-profit company by 30 June 2009.
2) Act No. 4 of 2006 on companies entered into force as of 1 July 2007. This act introduced the concept of a 'non-profit company' that can carry out common economic activities that do not generate a profit. It may take any legal form prescribed in the act on companies.[455] A non-profit company can also have public benefit status.
3) A public foundation is a special form of foundation that may be established only by the Parliament, the government or the representative body of local governments or minority governments in order to ensure the continuous provision of public obligations.[456] As of August 2006, existing public foundations may continue their work but no new public foundations may be established.[457]
4) Act No. 10 of 2006 on co-operatives entered into force on 1 July 2006. This act establishes the new rules and regulations for new co-operatives as well as for old ones, which must comply with the law by 30 June 2007. The act distinguishes co-operatives from the company law by saying that in this case profit is a means to fulfil the economic, cultural, social and educational needs of its members. It introduces the idea of a social co-operative, which carries out activities for the public good and thus can have the status of public benefit.

The Act on Public Benefit Organisations[458] is a spectral legislation linking together private and public law regulations.[459] It defines the scope of public benefit organisations (from civil society organisations to foundations to non-profit companies) and determines the fiscal preferences to which they are entitled. The act excludes those organisations that operate only in the interest of their memberships (members benefit organisations, MBOs). In addition, the act explicitly excludes those organisations that can be considered as MBOs based on their core activities. The acts on personal income tax, corporate taxes and other revenues determine the extent and terms of preferences related to public benefit organisations.[460]

Although the legal framework for the civil sector is developed and sophisticated in Hungary compared to other CEE countries[461], the continuously changing legal environment, excessive and undifferentiated laws and regulations and problems with implementation impede transparency. Among the principal problems is the absence of a unified regulatory system to simplify and unify the registration and liquidation of NGOs and differentiate their administrative and management rules according to their income. In addition, the regulations for public law (public foundations, public benefit companies) and civil law (associations, private foundations) NGOs are not differentiated. As a result, the majority of state resources are held by public foundations and public benefit companies, even though these organisations do not fall under central budget control.[462]

In Hungarian educational policy,[463] key areas for development of knowledge are: respect for individual and human rights; openness to social issues as appropriate to the age group; skills for using democratic institutions and participation in public life. The National Core Curriculum requires in grades 9 to 12 a 'discussion on moral and ethical questions', which consists of two workshops on low-value forms of corruption (tips, bribes, etc.) that are part of everyday life in Hungary.

Resources/structure

Besides TI Hungary, no CSO deals exclusively with anti-corruption activities or integrity. However, NGOs (Eötvös Károly Public Policy Institute, Hungarian Helsinki Committee, Hungarian Civil Liberties Union) are deeply involved in anti-corruption activities by enforcing transparency and accountability in the public sphere,[464] promoting fundamental rights and principles laid down in the Constitution of the Republic of Hungary and in international conventions. Their goal is to build and strengthen civil society and the rule of law in Hungary, working independently of political parties and governmental institutions.[465]

Business groups and other business-led lobbies campaigning against corruption include: First Hungarian Lobby Union, Hungarian Chamber of Commerce and Industry[466], Confederation of Hungarian Employers and Industrialists. The published provisions of these business entities are general: members commit to conduct business activities in a fair manner.[467] Foreign Chambers of Commerce have also put anti-corruption advocacy on their agenda. Transparency Committee of the American Chamber of Commerce has prepared several proposals enhancing transparency in public administration. Furthermore a coalition of Ambassadors representing main foreign investors to Hungary formed a Transparency Working Group with the aim of advocate for anti-corruption reforms at the Hungarian Government. The Hungarian Business Leaders' Forum also operates a Transparency Group which enhances the transparency of corporate structures.

The Hungarian Donors Forum (HDF) was established in 2006 after several years of planning. This is a big step forward in developing a support infrastructure and interest representation for Hungarian grant-making foundations. HDF engaged in a joint project of the CEENERGI network (Central and Eastern European Network for Responsible Giving), establishing a corporate social responsibility (CSR) award in Hungary based on international standards.[468]

There are six major union alliances in the country in addition to various interest groups, such as vocational chambers.[469] The more traditional groups that had been founded under socialism are seen as affiliated with the political left, whereas some new unions and interest groups, especially farmers groups, are perceived to have right-wing connections.[470] According to their own and official statements they are not interested in anti-corruption activities.

CSOs make efforts to promote the proper implementation of recently adopted laws. For example, the Freedom of Electronic Information Act required that as of January 2006 all ministries should publish on their webpage documents that are considered to be 'public interest data', including drafts of programme concepts, strategies, policies and laws. The Environmental Management and Law Association (EMLA) has maintained a website that monitors the extent to which ministries comply with this requirement. As of its November 2006 report, only five ministries had fully complied with the law, but progress could be seen in other ministries over the year.[471]

Annual income of the aforementioned CSOs is between 200,000 and 100,000,000 HUF (80,000 and 400,000 EUR). The average number of employees is 4 to 8 people, which includes both full-time and part-time staff. However, it is common to outsource work to individuals on a contract basis. All the CSOs mentioned engage at least half a dozen experts for some length of time for public awareness activities, advocacy campaigns or scientific research.

The two main sources of income for the CSOs involved anti-corruption work are direct support (donation) provided by foreign donors (30 per cent) and the state, which provides the largest share of NGOs' total income (about 45 per cent).[472] The remainder of the support comes from Hungarian businesses and citizens, most contributing through voluntary work (citizens are entitled to designate 1 per cent of their income tax to a chosen public benefit NGO and another 1 per cent to a church or a determined activity of government).[473] Finally, 5-10 per cent of the total sum comes from activities conducted by the organisations themselves.

It is increasingly common for individuals to volunteer for different organisations, increasing CSO visibility and helping them fulfil their tasks more efficiently. To facilitate the work of volunteers in the public interest, Act No. 88 of 2005 on Voluntary Activities in the Public Interest[474] allows host organisations to register in order to become eligible for tax benefits on any expenses connected with organising voluntary activities.[475] As of October 2006, about 500 public benefit organisations registered under this law.

The government may provide direct financial support to the civil sector through the following channels[476]: a) support for operations from the public (state) budget, b) 'normative' support from the public (state) budget, c) support from the ministries and from public funds, and d) the National Civil Fund.[477]

In the past year the organisational and financial capacities of NGOs improved slightly, especially in those that received funding from the EU Structural Funds for investing in service and infrastructure development. Over the past year several leading NGOs, both national and local, completed a strategic planning process as a result of the Trust for Civil Society programme that led to substantial changes in their organisations.[478]

In comparison with other Western countries, the total public support for the Hungarian not-for-profit sector (including central and local budgetary support, plus the support from ministries and funds) is substantially lower. Contracting out for public service delivery is not yet widespread, although there has been an increase in the past five years.[479]

Accountability

The laws detail control and supervision mechanisms for each type of non-profit or civil organisation. Two types of control are distinguished: legal and fiscal control.

Under Hungarian law any association is accountable to the assembly of the members. This internal supervision is regulated by the act and the statutes of CSOs. The Board of Supervisors – whose members are elected by the General Assembly – must supervise the activities and financial operation of the Executive Committee.[480] However, the over-politicised atmosphere of some major NGOs has revealed problems in establishing internal democracy. For example, one of the largest membership organisations in the country organised a demonstration against government reform in taxes and budget spending based on a decision by its governing board without consultation with members, many of whom were uncomfortable taking a political stance regarding the new restrictions.[481]

The governance principles for internal supervision of private foundations in Hungary are not entirely clear. According to an article in the *Social Economy and Law Journal,* 'Although in principle the founder retains the right to appoint and dismiss board members throughout the life of a foundation (and is also the only person competent to modify the founding statutes), in practice Hungarian court rulings show a tendency to restrict the founder from active involvement in decision-making about the organisation. This is logical and understandable, given the fact that in most cases the founder has made only a minimal financial contribution to the organisation. There is also a legal argument that a foundation is a separate legal entity, so founders should be able to exercise only indirect control over foundations'.[482]

The Taxation and Financial Control Office exercises financial supervision. The State Audit Office controls the spending of public budgetary resources and publishes official reports on CSOs.[483] The public prosecutor is responsible for general supervision in questions of the legality of civil society organisations by issuing a notice or a warning to the organisation or lodging a petition against the decisions of the organisation's governing body. The public prosecutor may have recourse to the courts in cases in which the legality of a civil society organisation cannot be ensured by other means. Based on a suit by the public prosecutor, the court may nullify the unlawful decision of a civil society organisation, or as a last resort 'shall declare the termination of the civil society organisation'.[484]

The public prosecutor's powers of general supervision are extended to include supervision over the provisions of the Act on Public Benefit Organisations. This means that the public prosecutor may oversee the existence of public benefit criteria and compliance with operational and management requirements. Based on the Act on Public Benefit Organisations, the prosecutor may also instigate a change in status of the organisation to a lower category of public benefit or even the removal of the organisation from the public benefit registry.[485]

Civil and non-profit organisations with public benefit status by law must publish their public benefit report annually. However, publication is not enforced by any authority. As it can be an annex for applications for support and tenders, it is not published but may be made public on the website of the organisation.

Integrity mechanisms

The founding document of public benefit organisations includes rules on conflicts of interest for operating officers.[486] Some of these rules are defined in the Act on Public Benefit Organisations.[487] Legal requirements are clear and transparent and are generally fulfilled by the officers and members of CSOs. Lobbying activity by officers (and their close relatives) who are employed by public associations (public chambers) or public foundations is prohibited.[488] Nevertheless other

CSOs may perform lobby activities without adequate control since they do not fall under the scope of the Act on Lobbying.

No rules constrain CSO behaviour in connection with receiving gifts and hospitality. The Act on Lobbying only prohibits the reimbursement of travel expenses for representatives of governmental offices.[489]

Transparency

To be legally acknowledged, a civil society organisation must be registered by the courts. The regulations specify the types of data to be supplied.[490] Registration can be refused only if the organisation does not conform with legal requirements. Rejected applicants may seek legal redress through judicial procedure. According to the same rules, courts decide on registration of public benefit status of civil society organisations.

Any change in registered data of a civil society organisation must be reported to the court within 60 days. In addition, all civil and non-profit organisations must provide information annually to the Hungarian Central Statistical Office on their actions/operations.[491]

Although the procedure for registration is provided for by law, as registration lies with the county courts (plus the Budapest Court, altogether 20 courts), and as there is no central database of registered organisations (only voluntary information), the actual registration procedure can vary from county to county.[492]

Complaints/enforcement mechanisms

There are hundreds of cases in which civil society organisations have issued an official recognition of financial support received so as to enable a tax refund for donors, when in fact they did not receive the entire amount or had returned some part of it. Another frequent criminal offence allegedly committed by CSOs and their officers is tax evasion, which occurs when public benefit organisations import products as humanitarian aid (free from duty and VAT) and then sell them.[493]

On the other hand, it appears that solid progress is being made in the fight against corruption in tax administration.[494] Only a few cases have been publicised in which CSO activists (for animal welfare) were threatened by hunters and hunting organisers.[495]

The following play the greatest role in CSOs strategies against corruption[496]: awareness of special law enforcement and judicial practice; awareness of everyday practice, developing a culture of the right to information; awareness of the results of opinion polls, and scientific research.

The structure and form of social consultation has changed in the last few years. As a result, the importance of civic participation has increased as well.[497]

Relationship to other pillars

The Government's Civil Society Strategy of 2002 was reviewed following the elections in 2006.[498] The major conceptual change in the new document is that the government has defined five areas where it sees its primary goals for intervention: 1) improvement in methods for civil participation; 2) review and development of the legal environment; 3) strengthening the effective operation of CSOs; 4) creating an applicant-friendly tender procedure for state support; 5) promotion of the participation of CSOs in public services delivery (of state and local governments).

At the governmental level there are 'guiding principles'. These principles, among other things, require that line ministries develop their own strategies for civil society and NGOs.[499] This document also encourages and helps local governments to establish their own relationship with civil society at the local level.

CSOs and NGOs play an important role in strategic planning and decision-making at the regional and local levels. In many cases, councils or advisory groups work next to local governments or the municipality of the county. A network of civil organisations is based at the county level to provide and disseminate information and knowledge on issues related to CSOs. It has connections with the central government as well. However the system of inclusion of CSOs in decision making needs to be improved since they are not always invited for consulation and are selected arbitrary.

EU funds have strengthened the ability of civil society to articulate its interests. Civil society representatives are delegated and/or invited to different advisory groups, strategic planning

and/or monitoring groups related to these funds, although delegation mechanisms and responsibilities of the organisations still need to be improved.

The interaction between CSOs and local governments is extensive. There are several forms of co-operation, from the contracting of services to participation in local decision-making processes. The Act on Local Governments[500] requires local governments to regulate their relationship with local CSOs but also provides for great flexibility in how to do so. Although the interaction is extensive, the quality of the co-operation is insufficient: local governments usually meet only the legal minimum requirement for involvement of CSOs in local decision-making processes.[501] The influence of CSOs on local issues is not significant.[502]

The most serious problem regarding the relationship between CSOs and the state or local government is a trend in politicisation of the NGO sector, which continued in 2006. Hungarian media and the public have come to see NGOs as political actors; civil society is seen as a potential tool for gaining power.[503] The clear result is that the dependency of CSOs on politics is more and more visible.

Regional and Local Government

Roles of the sector

Local government is a significant component of the public sector, both as a provider of public services and the local manager of administrative responsibilities. Elected local governments operate at the municipal and regional (county) levels.

After the political transition the new system of local government was established by the first law passed by the newly elected Parliament (Law on Local Governments[504]). This legislation responded to the general public demand for establishing politically, financially and administratively autonomous local governments in Hungary. Local governments are regarded as critical elements of the national integrity system by being independent actors in the public sphere and operating as local counterparts of the national government.

Rules on decentralisation are based on the principle of subsidiarity; that is, public functions are clearly assigned to the lowest possible level at which they can be managed efficiently. Elected local governments are responsible for two main sets of tasks: they provide mandatory or optional public services and they serve as the local public administration. Both of these functions are managed within the overall national regulatory framework, with relatively high levels of local autonomy in implementation of the tasks assigned to municipalities and counties.

From the perspective of integrity, this system has two major consequences. First, local governments are primarily accountable to their citizens and users of their services. The legal and professional supervision provided by the national government is limited. There is no subordination between the two levels of local governments, counties and municipalities. Second, the administrative independence of localities is reflected by the fact that certain central administrative functions are delegated to them. This dual character of Hungarian local governments is reflected by the position of the local chief administrative officer (CAO). The CAO is appointed by the local council and manages the city hall, but at the same time represents the public administration at first instance.

Local governments have no specific agencies with a remit to deal with corruption, but the overall local political accountability and administrative mechanisms are of vital importance in curbing corruption. Supervisory organs of line ministries, the Hungarian State Treasury and the State Audit Office have regional offices and decentralised units, but their anti-corruption responsibilities towards local governments are limited. They do not have the authority to intervene in local policy decisions; only their legality and compliance with laws and regulations can be checked.

This legal and administrative environment makes local political accountability one of the most important components of the local integrity system. There is no evidence on how decentralisation has influenced the level of corruption in Hungary because several conditions changed simultaneously. However, the overall assessment of local governments is better among at all types of municipalities than it is of the national government.[505]

Structure and Resources

In a country of ten million people there are 3,187 local governments (including 19 counties and the City of Budapest). Establishment of this very fragmented local system was a reaction to the forced amalgamation of localities under the Soviet system of local governments. These local governments manage 25 per cent of general government expenditures and control 12 to 13 per cent of GDP. There are 43,000 civil servants employed by local governments and almost 400,000 public employees work at various municipal service organisations. This is equal to more than half of total public sector employment.

The relatively small size of local governments (half of the municipalities have a population below 1,000) and the wide scale public service management, economic development and public administration functions have created a highly decentralised system. Four-fifths of mayors are elected as politically non-partisan, independent candidates. This indicates that local candidates taking up local concerns play an important role in the electoral process and do not simply re-play national political battles at the local level. In this sense, small local governments are more responsive towards the community than the national government and there are simpler, more direct forms of electoral control over local leadership. On the downside, however, there is a danger of capture by local elites in this municipal structure. Thus, the integrity systems at local level must focus on participatory techniques and direct control of the public over service organisations.

The self-governmental functions of municipal governments are performed by the municipal council. This elected representative body has the legislative functions and basic rights and powers of local government. The councillors are elected on an open list in local governments with a population below 10,000; in larger cities the electoral system is a mixed one, with councillors elected in individual wards and on party lists. The mayor is directly elected. Similar to the members of Parliament, there are clear rules for local politicians to avoid duplication of powers (e.g. no mayor can be an auditor) and to maintain separation of the judiciary and the military. Councillors and mayors cannot be civil servants supervising local governments. These are basic institutional guarantees for avoiding conflicts of interest within the public sector.

The local councils operate through technical committees and a network of councillors. The committee structure is defined by the council and their members; the councillors are appointed by the council. A majority of committee members must be local representatives, but experts might be invited into committees as well. This guarantees professional operation of these elected bodies. In terms of integrity, the financial (control) committee is the most important. By law, finance committee must be established in all municipalities with a population above 2,000.

The office of the municipal government (called the mayor's office) is managed by the CAO, who exercises the employers' rights over civil servants, prepares issues for decision by the municipal council and is the organisation of first instance in administrative issues. However, the mayor, as the elected leader of the local government, is the political and administrative head of the local authority. This dual management structure has created conflicts at local level. The CAO, employed by the council through the mayor, must provide legal control over political decisions made by the council and the mayor. This internal tension can prevent the efficient operation of the local government and has resulted in a relatively high turnover of CAOs. In a given election period there are significant changes in CAOs, who are typically replaced after the local elections.[506]

The broad functions of local governments are accompanied by relatively high fiscal autonomy. Local governments are owners of the former state property and manage their budgets autonomously. The municipal budget is clearly separated from the state budget and the rules of allocating intergovernmental transfers and subsidies are set by laws in a transparent manner. Local governments manage their own property within the legal framework: some local assets are inalienable (local public roads, squares, parks), but others can be use based on municipal regulation.[507]

The high level of local fiscal autonomy was introduced in the era of budgetary restrictions. The fiscal pressure on municipalities, which work in a market environment, raises the risks of corruption. In this regard, the most important risk areas are the extensive use of alternative service providers of municipal services, contracting practices in the community sector and utilisation of local tangible assets (land, buildings, etc.). The regulatory framework in all these areas has been developed during the past decade, but they are still experiencing significant changes (e.g. recent changes of the public procurement law, gradual development of public-private partnership schemes).

In terms of local public integrity, several areas of local government operation are exposed to a high risk of corruption. Local governments extensively use contractors for providing public

services.[508] Local governments themselves also establish foundations for collecting extra-budgetary funds and support for financing their public tasks. These institutions, which operate at the border of the public and private (non-profit) sectors, are at a higher risk of conflict of interest and corruption.

Regulations on the management of community companies with municipal ownership have been developed gradually since the mid-1990s. The key elements are that managers of companies cannot be elected as councillors, and requirements have been put in place for competitive tendering for community services (solid waste collection, public cleaning). However, there are still debates as to whether those local governments with a majority ownership in service companies that have previously assigned service specifications are subject to tendering.

Privatisation, sale of municipal assets and more sophisticated forms of public-private partnership deals are the most frequently exposed to corruption. As in contracting procedures, there are three basic conditions for local government integrity. First, these decisions must be prepared in a manner that is technically sound so that local governments do not suffer long-term losses. This requires professional capacity, either developed inside city halls or provided by consultants hired by the local administration. Second, contracting procedures, tendering of assets, public procurement of complex services (Build-Operate-Transfer schemes, concessions, etc.) and public-private-partnership projects are important factors for integrity. Beyond the technical knowledge and expertise to manage these procedures, the transparency of the entire local government decision-making process is a critical condition for reducing the risk of corruption. Finally, internal rules on conflicts of interest must be in place and be enforced. Municipal practices and codes of conduct have to be learned and implemented. This can also be supported by external support from civic and community organisations.

Most of these municipal actions connected to the private sector can be influenced not only by personal financial interest, but also by political actors. This relates to regulations on political party and campaign financing. Concerns about using market-based instruments at the local level often raise the suspicion that profits from overpriced contracts or cheap sale of municipal assets might flow back to political parties in power.

The risk of public sector corruption is especially high when national budget subsidies or grants for capital investment to local governments are involved. The corporatist system of regional development councils and the allocation of EU funds further increases the risk of this type of grand corruption. In general, fiscal dependency creates an unfavourable environment for the functioning of local governments.

Accountability

Two main types of accountability mechanisms are in place in local government system in Hungary: administrative and social accountability methods. The techniques for administrative control and supervision are being developed as the roles and functions of the former national government agencies are changing. The ministries and central state bodies have been gradually shifting their activities towards policy making and regulation. This leaves less human and financial resources for supervision, control and audit. These functions are shared with the self-regulatory bodies (association of local governments, association of CAOs), professional associations (e.g. benchmarking in the water sector) or the private sector (e.g. in the case of public education, where contracted consultants have replaced the former inspection mechanisms).

However, the most important actor of administrative accountability is the State Audit Office. The financial management of local governments is controlled by the SAO, which is organised by subject area and region. (The informational foundation of SAO activities is partially provided by the State Treasury, which also exercises formal control through allocation of intergovernmental transfers.) In addition, the grants and subsidies provided by the European Union can also be controlled by the European Audit Office and the relevant organisations of the European Commission. This is supplemented by the control organisations and authorities of the ministries and various programmes. Although institutions and procedures for auditing EU funds are in place, human resource capacity for monitoring needs improvement.

The SAO local government branch does not have sufficient capacity for regular comprehensive financial audits. On average a local government is audited only every fourth or fifth year.[509] For this reason, auditing methods and management are being transformed, with increased emphasis on developing ex-ante, procedure-oriented and supportive audits. By law municipalities receiving capital grants from the national budget or that reach a minimum level of spending must hire

internal auditors and include an audited report with their budget reports. Thus, the burden of administrative accountability is shared with local organisations.

Social accountability mechanisms need to be improved. Today, as the early enthusiasm for local autonomy is waning and the general public becomes more apathetic, methods for participation and inclusion need to be improved. By law, local governments must hold public hearings at which the general public and representatives of local organisations can ask questions and make proposals on matters of public interest. Public hearings are announced in advance and must take place at least once a year. The impact of public hearings could be increased through greater information sharing and the institution of special public hearings on major investments or municipal programmes.

There are also other forms of direct democracy in the Hungarian local government system. Local referenda are called for major decisions (e.g. separating a community from an existing municipality), typically 5 to 10 times per year. Local leaders and councillors hold their own open office hours regularly, when anyone may come to discuss general community issues or specific concerns. Programmes to develop e-government for public administration services have increased the use of the Internet for information sharing and interactive services. According to one survey, 41 per cent of local governments maintain a website, separately or together with civic organisations.[510] This percentage is lower in small villages and higher in towns and cities. Unfortunately, 60 per cent of the Hungarian population still does not access the Internet.

There is huge potential for improving social accountability. A survey from 2001 showed that two-thirds of local governments do not make the draft budget public, 71 per cent do not discuss budget plans with NGOs and 63 per cent do not present the draft budget to the local media.[511] Thus, beyond formal public hearings, other channels could make local governments more accountable through increased transparency.

Integrity mechanisms

General rules on conflicts of interest must be followed by local politicians and civil servants employed by local governments. The mayor, elected councillors and even invited expert-members of local government committees must disclose their assets. In case of false reporting, the council may vote to launch a court procedure. The report on private assets is not public; only a special committee of the local council is authorised to verify this information. However, some mayors voluntarily made their reports public.

Only a few local governments have adapted (or made public) their codes of ethics,[512] in which the acceptance gifts and services is supposed to be regulated.[513] There are no regulations on post-public employment, so a civil servant might be hired by former municipal contractors.

As the boundaries between the public sector and non-governmental and private organisations are not clearly defined, there is a high risk of corruption and misuse of public funds when local governments provide grants to civic organisations. In 2006, 277 billion HUF (9 per cent of the total local government budget) was allocated to non-profit organisations, foundations, etc. According to the SAO report, despite the provisions of the Act on Local Governments, 60 per cent of these decisions were not made by the council, but authorised only by the administration or the managers of the budgetary institutions.

Transparency

Transparency of local governments is assessed here in terms of the openness of local council operations, public control over procurement and service contracts and public accessibility of budgetary information.

Local governments usually hold open council meetings, which can be recorded and published without the approval of the councillors.[514] The law clearly delineates those issues for which closed council sessions may be held. Closed council meetings are typically called for decisions about promotion, dismissal or the future use of municipal assets, conditions of tenders, etc. The application of the general rules is ensured through legal remedies and by the Ombudsman for data protection and freedom of information.[515]

In the area of public service provision transparency is required mostly in public procurement decisions. The great majority of public purchases are managed by local governments. In 2005 almost half of public procurement actions (45 per cent) were implemented by local governments, which represented 23 per cent of the total value of public acquisition.[516] From 2001 to 2005 the

amount of procurement completed through negotiation increased 4.3 times (in all other public sector entities the trend was similar). Due to the large number of relatively small public tenders, approximately one-third of local government public procurement was challenged at the Council of Public Procurement both in 2001 and 2005. The number of appeals decreased as a percentage of all appeals (60 per cent of cases in 2001 were related to local government, while only 46 per cent were in 2005). Thus there has been a slight improvement, demonstrating that local governments and their institutions have gradually been learning the rules of the game.

Transparency in local public service provision is ensured through various means. The requirement for public procurement in community services has already been mentioned. Some innovative local governments have drafted citizen charters, which are contracts between local governments, as service providers, and the citizens, as customers. In administrative services and local economic development issues, there are one-stop shops and municipal customer service offices. While these do not make local governments more transparent, they increase the efficiency and user friendliness of local administration.

In general, budgeting and fiscal reporting meets international requirements in all segments of the government.[517] That is, for macro-economic planning and reporting purposes the requirements on General Financial Statistics are met. However, this does not mean that MPs or councillors are properly informed. Moreover, this information is hardly understandable to ordinary citizens. Recent changes in the categorisation of public services and unclear rules on cost allocation further inhibit politicians from comprehending actual spending priorities and following the details of annual reports. The Ministry of Finance website is one of the least informative on local government spending and revenues among central agencies. Interestingly, only local taxation data are presented in greater detail on the Ministry of Finance website.

Based on the general rules of public information[518] all information on local government budgets and fiscal reports should be made public. While this may be the case for a given local government, the information collected from all local governments is not accessible. Therefore, local government fiscal reports cannot be compared. This is a major obstacle for independent policy making on local government fiscal reforms. Despite the opinion of the Ombudsman on data protection, there is no access to fiscal information, which is otherwise public for local governments.[519]

Complaints/enforcement mechanisms

Infringement of rules and legal regulations by the mayor may be challenged in court, following a council resolution adopted by a qualified majority (two-thirds of votes). However, this method is rarely applied to remove a corrupt mayor because of political loyalty among the councillors from the same political party. Local governments sue natural and legal persons, and they can also be sued by citizens in civil procedure. However, if an ordinary citizen knows that a legal person obtained illegal permission allegedly by means of corruption, s/he cannot sue the local government, but can only denounce the alleged perpetrator to the police.

The regional administrative offices of the government decide on appeals against first instance administrative decisions made by the mayors or town clerks. However, redress through the legal system is difficult because an appeal is lodged against every eighth first instance decision, which results in a huge workload for administrative offices.

Regional administrative offices can exercise control over municipal organs in their area of operation by accessing documents, asking for data and information and performing on-site checks. However, this control can be extended only to the legality of municipal decisions, not to their expediency, rationality or cost-efficiency. Regional administrative offices cannot change municipal measures, nor can they suspend decisions.

If the local government agrees that an infringement has occurred, it can withdraw or change its decision. If its notice is refused, the leader of the county administrative office can go to the Constitutional Court in cases of legislation, and to an ordinary court in cases of individual decisions. Past experience shows that actions brought against local governments are well-founded. Both the Constitutional Court and other courts rule in favour of the county administrative offices in a high percentage of cases.

Relationship to other pillars

Corruption risks and integrity measures at the local level are related to other components of the national integrity system. In no order of significance, the following factors most influence local government integrity:

- The legislature, especially in terms of how election rules support accountability of mayors and councillors;
- Rules on political party financing, which are closely connected to various local government decisions;
- The national audit system and methods of auditing;
- Public contracting;
- Civil society active at the local, community level, whose strength is affected by rules on NGO registration, supervision and financing.

International Institutions

Roles of institution as a pillar of the NIS

Since the mid-1990s, international development organisations, foreign aid agencies, multilateral entities and non-governmental actors have promoted various anti-corruption initiatives demanding legal reforms, aiming at transparency, accountability and the development of democratic institutions. They have established incentives to combat corruption and have targeted corruption indirectly as part of the effectiveness of their programmes, or directly as part of their main missions. These institutions' anti-corruption work ranges from providing technical or financial assistance to the support of development of strategies and law. The European Union (EU) exerted the political and legal leverage over Hungary that it has over all of its candidate states until the country's accession, while the Council of Europe focuses on reporting, monitoring and evaluation of anti-corruption strategies.

The legal framework for curbing corruption has been continuously improved in Hungary since transition, and today meets international standards. The various government-initiated anti-corruption programs are partially the result of international pressure. Hungary has joined a number of anti-corruption programmes and signed various international agreements and conventions in order to fight corruption. Some of the most important are the United Nations Convention against Corruption, the Council of Europe Civil Law Convention on Corruption, the Council of Europe Criminal Law Convention on Corruption, and the United Nations Convention against Transnational Organised Crime. Hungary also signed the OECD Convention on Combating Bribery of Foreign Public Officials, the Strasbourg Convention on Investigating Issues Resulting from Crimes and of Money Laundering and the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters. International pressure also influenced the changes of banking laws, as a result of which Hungary was removed from the Financial Action Task Force on Money Laundering's list of countries that do not co-operate in anti-money laundering initiatives.[520]

Resources/structure

International Institutions (IIs) are quite active in Hungary. The most influential is the European Union. Other actors working against corruption are international organisations such as the Council of Europe, the World Bank, the International Monetary Fund (IMF), the Organisation for Economic Co-operation and Development (OECD); various bilateral development agencies such as the United States Agency for International Development (USAID), the UK Department for International Development (DFID); and international non-governmental organisations such as Transparency International, Trust for Civil Society in Central and Eastern Europe and Freedom House.

As part of EU membership, Hungarian governments participated in several anti-corruption activities initiated by the EU. Under the PHARE program for example, the EU provided financial assistance to further develop and strengthen the country's administrative capacity in order to ensure transparency and accountability of the European funds that Hungary started receiving after accession.[521] With the UN Office on Drugs and Crime and the United Nations Interregional Crime and Justice Research Institute, Hungary conducted a joint pilot project to apply the UN's Global Programme Against Corruption, which it had joined in 1999.[522]

Several IIs conduct reports of corruption in Hungary. Applying different methodologies, they generally assess the legal framework and legislative changes and their implementation, or the perception of corruption. They often point out problematic areas and provide recommendations for improvement. Transparency International and Freedom House co-operate with local NGOs, media and governmental officials in publishing their reports related to corruption in Hungary. At the request of IIs such as the EU Office against Fraud (OLAF), USAID, Hungarian organisations, research groups and corporations have also mapped out the corruption environment. The OECD engages the private sector and civil society in discussions for the Phase 2 Country Monitoring examination.[523] The IMF in 2006 held discussions with Hungarian governmental officials and state bodies on fiscal transparency in Hungary based on its country report.[524] A year later, in the 2007 report, the IMF raised concerns about government practices of previous couple of years, which 'sought to rely on transactions which have the effect of reducing the measured deficit and debt without changing the underlying fiscal position.'[525]

GRECO (Group of States Against Corruption), the initiative against corruption organised under the auspices of the Council of Europe, is responsible for monitoring and evaluating its members' anti-corruption activities and the implementation of international legal instruments. Similar to other Council of Europe initiatives of which Hungary is also a member, the primary means of enforcement is peer pressure. In the first two evaluation rounds of this initiative, Hungary has received recommendations for improvement in the country's compliance with Council of Europe anti-corruption standards. In addition to helping to identify deficiencies in national anti-corruption policies and prompting the necessary legislative, institutional and practical reforms, GRECO also assesses implementation of its recommendations.[526]

The international community often shares information and coordinates with the various programme implementers to ensure that their efforts are complementary. The OECD's Anti-Bribery Convention, for example, requires its members to work to interact with and reinforce the anti-corruption activities of others such as the UN, Council of Europe, the EU, the World Bank, the IMF and many others.[527]

Accountability

International organisations can operate freely and independently in Hungary. They have no reporting requirements to the Hungarian state. In the case of bilateral agencies, agreements between them and Hungary specify their level of independence. Once an II registers in Hungary however, it must comply with national rules and regulations and is considered as a domestic entity under the Hungarian legal framework.

International organisations usually comply with the rules and regulations of their headquarters in their home countries; in the case of bilateral actors, they are accountable towards their country's taxpayers.

The oversight of subsidies provided by the European Union's Structural and Cohesion Funds are governed first at the national level. In cases of suspicion of misuse of resources, OLAF plays a crucial role. The main function of OLAF's Coordinating Office in Hungary is to coordinate the work of Hungarian authorities and OLAF headquarters. All violations of rules on the use of structural funds must be reported to the headquarters. Furthermore the Coordinating Office compiles an annual report.[528]

The interests and policies of their headquarters are the primary determinants of IIs' project selection. These do not involve substantial public participation. Nonetheless, the public is invited to report any irregularities in the contracts or tendering processes linked to the EU, World Bank and IMF directly to the organisation's headquarters.

Integrity mechanisms

Internal codes of conduct usually exist for IIs. Their bylaws include strict conflict of interest regulations. There are no specific codes of conduct set up by Hungary for foreign public officials.

Transparency

As transparency is of high importance for IIs, disclosure of information is common. This is mostly in English. Annual budgets as well as operations are published on II websites.

The EU has strict rules on the award of contracts based on the regulations that govern the use of EU funds. It contributes to the overall transparency of the contract tendering process by publishing information on all upcoming contracts, as well as the various awarded contracts themselves, on its website. Since 2003 it has produced a Practical Guide to EC External Aid Contract Procedures to further improve its regulations on tendering, advertising, participation and contract awards and technical evaluation.[529]

Adhering to its principles of transparency and openness to public scrutiny and accountability, in November 2005 the EU Commission launched the 'European Transparency Initiative' (ETI). This initiative is intended as a forum based on existing measures in the area of transparency and modern public administration, further opening the debate on improvement in this area.[530] As a result of the ETI, beneficiaries of EU Structural Funds must be published on the Internet. Data available on the website of the Hungarian National Development Agency complies to a large extent with this regulation in a very user-friendly manner.[531] However, access to information concerning the implementation of awarded projects is limited.

Various European documents underline the importance of public participation in decision-making and strategic planning processes.[532] A study published by Transparency International in 2006 reported insufficiencies in the public's actual involvement.[533]

In general the selection process of grant projects to be supported by the EU's Structural Funds meets international standards and prevents corruption to a much greater extent than in Hungarian state-supported systems.[534]

The activities of most IIs are widely published on their websites, which allows other actors to monitor their work. The World Bank's Integrity Department for example provides mechanisms to report on suspected fraud and corruption related to its staff and resources.

Complaints/enforcement mechanisms

The OECD called upon Hungary to take further steps to curb bribery and corruption in foreign business transactions.[535] Its Anti-Bribery Convention obliged Hungary to make bribery of foreign public officials punishable by criminal penalties comparable to those applicable to local public officials.[536] As a result, the Hungarian Criminal Code adopted similar language on foreign bribery offences as that for domestic.[537] Any public official who in official capacity requests or accepts an unlawful advantage or a promise thereof is guilty of felony and shall be punished by one to five years in prison.[538]

The United States Department of Justice organised trainings for Hungarian prosecutors and judges in 2003 and 2004 on bribery and money laundering, including issues of foreign bribery. Still, a 2005 report of the OECD found that no investigations have been opened into foreign bribery offences. This may be due to the lack of awareness of this type of offence and inadequate protection of whistle-blowers in Hungary. There are no specific legal provisions on whistle-blower protection for public officials in Hungary when they report on suspicions of foreign bribery.[539]

Relationship to other pillars

IIs have an active role in Hungary's National Integrity System, but they are less influential due to their limited legal and enforcement power. International organisations interact with various other pillars of the NIS, from government agencies to the civil service to the media, and provide technical and financial assistance for curbing corruption. Many developments in the anti-corruption regulatory framework have been the products of II pressure, and certain legal mechanisms have been the results of their influence. These of course have also affected the judiciary and executive branches as well other state institutions. In monitoring and awareness-raising efforts the IIs co-operate with and provide trainings for the media and civil society as well.

Even after the harmonisation of anti-corruption legislation to European and international standards has been achieved, further monitoring by international organisations is necessary. Additional technical and financial assistance could further ensure the successful implementation of anti-corruption laws, which would strengthen public trust in democratic processes. IIs play an important role as resource centres and provide platforms for exchanging ideas and expertise. They aid in the integrity of those laws and institutions that aim to curb corruption in Hungary.

Evaluation of the NIS

Hungary has an institutional and regulatory system in conformance with EU standards to ensure transparency and accountability and minimise the risk of corruption. Conditions for EU membership placed a heavy burden on the country to reinforce the NIS to the point it is at today. Since the transition, important bodies have been set up (e.g. Anti-corruption Co-ordination Body), strategies have been elaborated (e.g. Governmental Strategy Against Corruption). Legislation has also been adopted in key areas (e.g. Glass Pocket Act, Act on Lobbying). However, the efficiency of these is questionable as necessary institutional structures and resources are often lacking or weak. Consequently strategies mostly remain documents and laws and regulations are not always implemented consistently.

A summary and evaluation of the main findings of this study must note that certain issues of crucial importance appear under almost every pillar as the most important deficiencies to be addressed for a better anti-corruption system. (For detailed information see Table 2 below.) These are:

1. There is no effective protection of whistle-blowers.
2. Codes of ethics and conduct are lacking in most institutions, and as a result rules on conflicts of interest, post-employment restrictions, gifts and hospitalities are also often missing or not rigorous enough.
3. Recruitment procedures are not transparent in several public institutions, leaving room for discretional decisions instead of open competition.
4. Political influence is still too great in public administration structures.
5. Not all information that should be disclosed under freedom of information legislation in force is disclosed in practice.
6. At times, the findings of institutions playing a crucial role in anti-corruption procedures do not have much weight and are not implemented.

The most sensitive issues uncovered in this study are as follows.

Funding of political parties is the most important issue. Based on campaign cost analyses, a large proportion of financial resources political parties use, seem to originate from off-the-books contributions. Campaign and party finance regulations are not appropriate and monitoring and auditing of campaign finance leave considerable scope for abuse.
The State Audit Office is one of the most important anti-corruption institutions, but it does not always use its full authority and because of limited organisational and human resources, audits are not sufficiently frequent or broad. Moreover, the recommendations of the SAO are not always acted upon.
The performance of law enforcement agencies as pillars of the NIS is weakened by what appears to be high level of internal corruption (in the case of the police and the Customs and Finance Guard) and the lack of professionals specialised in the investigation of corruption-related crimes.
The system and regulation of public procurement is highly and perhaps overly complicated, and it leaves room for manipulation. A simpler system that is better enforced and monitored would improve the situation.
Not all data of public interest is made public. The Government Control Office plays a crucial role in anti-corruption measures, but its reports are not publicly accessible.
In the case of local governments, the areas of highest risk for corruption are public contracting and utilisation of community assets, basically due to fiscal pressure.
From regime change until the present day corruption has been tackled on an ad hoc basis and at the administrative level, avoiding politically sensitive issues indicating the absence and the weakness on behalf of the political class to seriously engage with the issue.

Table 2: Strengths and Weaknesses of the Hungarian National Integrity System

	Strengths	Weaknesses
Executive	Appropriate rules of functioning, checks and balances secured by the Constitution	Missing or weak regulations (civil co-operation, acceptance of gifts, uniform codes of conduct, post-employment and whistle-blowing provisions)
Legislature	Supreme power of the Hungarian Republic, exercising its rights based on sovereignty, secured by the Constitution	Missing or not sufficiently strict regulation of MPs (code of ethics, fees and accommodation cost compensation, conflicts of interest)
Political Parties	Freely formed, the main actors of free elections, formally and in practice independent	Public perception of high level of corruption; party campaign financing non-transparent. Possibility off-the-books contributions, campaign finance regulations not appropriate, monitoring and auditing of campaign finance unsatisfactory
Electoral Commissions	Independent authorities, working openly, public resolutions	Weak guarantees of independence in election procedures, electoral sanctions ineffective, no rules on gifts and hospitality
Supreme Audit Institution	Independence guaranteed by the Constitution, perceived as objective and impartial	Not pro-active enough, limited organisational and human resources for necessary frequency and efficiency of audits, proposals and recommendations are not always acted on by institutions addressed
Judiciary	Independence in procedural and institutional terms provided by Constitution	Recruitment process not sufficiently transparent (leaves space for discretional decisions), uneven workload within judiciary, no ethical norms in cases of gifts being offered, no anti-corruption strategy within the judiciary
Public Sector Agencies	Regulations ensure legal basis of working for the state, special provisions intend to prevent political interference	Recruitment policies are not competitive enough, no code of ethics, no comprehensive gift and hospitality policy, no regulation on whistle-blowing
Law Enforcement Agencies	Legal authorisation to detect corruption cases	Unsatisfactory performance, reorganization since 1990 not far-reaching enough, weak technical capacities at the police and the prosecution office to investigate complicated cases of corruption
Public Contracting	Electronic procurement system introduced, all documents not containing business secrets are public	Highly complicated acts on public procurement, discretional power to set special provisions or conditions in tender invitations, anti-corruption clauses missing in tendering documents, unclear definition of abuse of business secrets can be misapplied and is often used to illegitimately deny public access to contracts

	Strengths	Weaknesses
Ombudsman	Legal foundation for general and specialised parliamentary commissioners set in the Constitution, independence guaranteed by rules of incompatibilities, immunity and property declaration	Selection process can be influenced by political intentions of parties, no post-employment restrictions, decisions of ombudspersons not necessarily taken into account
Government Anti-Corruption Agencies	A number of government agencies vested with control, supervisory and auditing functions	Reports of GCO not publicly accessible, no whistle-blowing protection, ACB's work not public enough
Media	Legal foundation for free and reliable work of journalists, progressive legislation	Imperfect implementation of legislation, licensing procedures not transparent, political battles and influence overflow into the media
Civil Society	Significant growth and development since the change of the political regime	Dependent on state resources, can be used for tax evasion or money laundering
Regional and Local Governments	Small size, wide-scale public service management, economic development and public administration functions created at the local level	No standard local conflict of interest regulations and codes of conduct, no specific agencies to deal with corruption, highest-risk areas of corruption are contract practices and utilisation of community assets
International Institutions	Crucial role (especially the EU) in setting the institutional and regulatory system of anti-corruption	Often over-bureaucratised

Priorities and Recommendations

Detailed recommendations for each pillar of the NIS appear below.

The most important recommendations are:

More rigorous regulation of political party funding is necessary.
The simplification and better enforcement of public procurement legislation is recommended.
Effective protection of whistle blowers should be introduced.
The role and performance of law enforcement agencies should be strengthened.
Transparency in the functions and mechanisms of local governments should be strengthened and political influence over their work should be reduced.
Implementation of the proposals of the State Audit Office should be enhanced.
A code of ethics, including rules on conflicts of interest, gifts, hospitality and post-employment restrictions should be established and implemented in all pillars of the NIS.
Disclosure of data of public interest should be enhanced, and sanctioning mechanisms for non-compliance should be considered.
A consistent, long-term anti-corruption programme should be developed and implemented.

Executive

A code of ethics should be adopted for the civil service as soon as possible, including detailed regulations on receipt of gifts and post-employment (including in parties) for civil servants working in the executive.
A functioning whistle-blowing structure and effective protection for each whistle blower civil servant and public employee should be introduced
The impact of the introduction of the new evaluation and remuneration system on the operation of the executive and the work of civil servants must be rethought.
More transparency is needed concerning the process for drafting legislation as well as a more pro-active approach to the implementation of the Electronic Information Act.
The control powers of the Parliament over the execution of the budget should be strengthened.
A well-formulated and functioning framework should be developed to give voice to civil society organisations through consultation in policy making.
The prime minister's office should publish all asset declarations on its website – as is prescribed by law.
The asset declaration system must be revised in general. More transparency, monitoring and sanctions for non-compliance are needed to make it effective.

Legislature

Ad hoc committees and select committees should be provided with the necessary tools in order to fulfil their tasks.
In the case of fact-finding committees established on the subject of corruption, trading in influence or the use of public funds, an effort must be made for political compromise in order that the committees are not used to disguise inactivity and instead demonstrate a true willingness to investigate.
The salary system for MPs should be more transparent and the practice of compensating without appropriate documentation should be stopped.
A code of ethics for MPs is necessary and a general awareness-raising campaign should target MPs to clarify issues related to offering and accepting gifts and favours and lobbying.
Parliament should ensure that MPs do not abuse their immunity to prevent legitimate investigations and that evidence is gathered in a timely manner.
Due consideration should be given to the idea of amending legislation so as to enable investigations in cases concerning parliamentarians as alleged offenders.
With respect to areas of legislation that must be adopted by absolute majority, serious consideration should be given to better and more meaningful co-operation among political forces, both from the government and opposition, so as to give true power to the Parliament.

The scope of the Act on Lobbying should be extended to include any person or organisation that seeks to influence legislation or its implementation on behalf of a private interest.

Political Parties

An new effective, transparent and rigorously enforced regulation of campaign and party financing should be the top priority, including rigorous regulation of the use of government advertising/public relations.
The unrealistic 386 million–forint campaign spending limit, which drives campaign financing off the books, should be eliminated and a more specific definition of what should be considered as campaign costs should be provided.
The disclosure of campaign costs should be far more detailed to enable effective monitoring of revenues and expenditures.
Third-party payment of campaign costs should be banned.
The SAO should be authorised to conduct actual investigations of parties' finances.
Stricter conflict-of-interest rules for local government representatives should be introduced (at a minimum, comparable to those applying to MPs).
Binding limits and disclosure rules on hospitality should be introduced and monitored.
Rules on gifts should introduce annual caps as well as reduce the value of gifts acceptable per occasion.

Electoral Commissions

It should be considered that an independent institution have the right to nominate elected members of the committee on elections procedure in order to improve members' independence and thus diminish political/governmental influence.
Consideration should be given to rules requiring non-public property declarations in the case of the elected members of election committees.
The system of sanctions in election procedures should be revised as in practice it is not effective.

Supreme Audit Institution

The SAO should use its powers and authorities in a more pro-active manner.
Better organisational and human resources should be allocated to the SAO for more frequent and efficient audits.
The present practice of notifying concerned organisations in advance of audits should be discontinued.
The possibility of re-electing the president of the SAO should be eliminated.
Consequences of SAO's proposals and recommendations should be clarified and strengthened.
Confidentiality obligations should be introduced as post-employment restrictions.

Judiciary

A list of objective criteria for recruitment should be set and made publicly available before the recruitment process begins. Transparency rules should be further elaborated and respected in the process of selecting legal clerks as well as judges.
At local courts employing only a small number of judges, special emphasis should be placed on avoiding the possibility of outside influence due to the fact that judges are, in practice, often acquainted with local legal professionals.
The powers of the presidents of the courts should be reviewed so as to clearly identify rules to facilitate effective administrative control while maintaining independence and impartiality of judges in the relevant court. Improving accountability should include strengthening transparency in internal election processes and giving more power to democratic bodies such as judicial councils.
The workload within the judiciary should be balanced and fair so as to facilitate the consideration necessary in important cases. This should also be reflected in the evaluation of a judge, placing less emphasis on statistics in cases of excessive workload.
Clear ethical norms should provide guidance on cases in which judicial officials are offered gifts, including small-value gifts.

The efforts of the Academy to provide anti-corruption training should be made a priority.
The NJC should urgently take steps to ensure that possible cases of corruption do not remain hidden within the judiciary by developing an anti-corruption strategy, making existing polls public and, if necessary, conducting further research to assess potential sources of risks and patterns of corruption.
The database of the NJC is a significant opportunity to improve transparency, and therefore enhancing the database should be a priority, including in financial terms.

Civil Service/Public Sector

Political and non-political functions within the civil service should be clearly separated: the practice of filling senior civil service positions with political appointees should be discontinued.
A code of ethics should be adopted for the civil service as soon as possible, including a comprehensive gift and hospitality policy and regulation on post-employment, so that civil servants are prevented from using insider knowledge for private business ventures.
A functioning whistle-blowing structure and protection for all whistle-blowers within the civil service should be introduced.
Implementation by ministries of the e-FOI Act is problematic, and therefore it should be reinforced.
Steps have been taken towards competitive recruitment policies in the civil service, but these should be strengthened in terms of the transparency of discretionary decisions and the results of each procedure.
Further measures are necessary in order to make the new system of performance reviews effective, such as familiarising civil servants with the systems' goals and background and instructing them on the confidential nature of surveys.
The tradition and regulations concerning short-term employment in a given timeframe should be reconsidered, as they weaken the integrity of the civil service.
Frequent amendments to the Civil Servants Act and the Public Employees Act should be avoided.

Law Enforcement Agencies

The technical competence and resources of units investigating corruption and financial crimes should be reinforced.
Corruption within law enforcement agencies should be reduced.
Confidentiality of law enforcement data must be revised to ensure maximum transparency.
Government Decree 16/1999 (II. 5.) Korm. on providing private security services by public police should be repealed.

Public Contracting System

The Public Procurement Act should be simplified and at the same time it should be more vigorously enforced and its implementation monitored.
After simplification, frequent amendments to the law, as has been the practice in the past, should be avoided to avoid legal uncertainty.
As several unreasonable formal and material requirements can lead to some tenderers being excluded from competition, the law should be reviewed to avoid restriction of competition.
Tendering companies should be obliged to implement a code of ethics.
By current regulations, the public procurement procedure can be declared unsuccessful if the higher authority withdraws financial support. Abuse of this authority, which favours one company, should not be permitted by law.
A monitoring system for public procurement procedures should be developed.
There must be guarantees of the independence of the Public Procurement Arbitration Committee.
The present appeals system is not sufficiently effective, as under the existing regulations the company searching for remedy and damages may have to turn to five different forums. The number of forums should be reduced and those remaining should be provided with the necessary financial support in order to settle disputes more efficiently.

Ombudsman

All findings and recommendations of the ombudsmen should be acted upon by the organisations to which they address.
The possibility of re-election of ombudspersons should be discontinued.
Post-employment restrictions should be instituted, especially in connection with positions in which appointment depends on governing parties.
The budgetary process should be changed in order to guarantee the budgetary independence of the ombudspersons. Consideration should be given to the possibility of enabling the ombudsperson to determine his/her own budget and obliging the government to provide justification before Parliament of any modification.
In accordance with the autonomy of the specialised ombudspersons, the budget should be determined separately.
Similar to the practice of the general ombudspersons, the specialised commissioners should publish their cases (except for personal data) on their website. This obligation could be prescribed in the Act.

Government Anti-Corruption Agencies

The GCO should immediately implement the recommendations of the data protection and freedom of information commissioner issued at the end of 2005. Among the recommendations, the following is to be reiterated: 'I ask the president of GCO to pick out those passages of the reports that do not contain classified information, and to make them available to anyone desiring to access such data of public interest.'
In addition to the Commissioner's recommendations, all GCO reports should be published online. Any proposals for the government that are regarded as preparatory data for governmental decision may be blacked out, while all post facto assessments should be public.
Hungary has no whistle-blower protection at all. A new Act on Classified Information is to be adopted in 2007, but its drafts do not contain whistle-blower measures. Protection should be provided to civil servants who learn of acts of corruption by handling classified information and are willing to disclose it to responsible independent bodies through a clearly defined procedure.
The publicity of the ACB's work should be monitored. The ACB should involve the broadest possible public in its work by disclosing all information. It should request participation by accepting the opinion of anyone who is willing to provide expertise on ACB strategies and proposals. The ACB should publish all studies, documents and reports created or commissioned by any state institution over the past few years.
Cooperation among government agencies vested with control, supervisory and auditing functions should be improved.

Media

Implementation of media-related legislation should be enforced.
Regulations on state and service secrets must be amended to avoid governmental abuses in which data of public importance is classified for excessively long periods.
Regulations on using material from third parties should be revised to enhance investigative journalism.
Rules on disclosure of data of public interest (disclosure of public information) should be more efficient in order to ensure a real possibility for the public, including journalists, to request and receive information within a short period of time. Sanctions should be developed applying to cases when regulations are not fulfilled.
Licensing procedures of the National Radio and Television Board, media contracts and the work of the Complaints Committee should be more transparent.
Court procedures should be more consistent so that all parties (journalists, lawyers, judges) have a clear picture of the application of existing regulations.

Civil Society

Control of performance of public benefit organisations' tasks should be strengthened.

A central and publicly available database on registered organisations is necessary.
NGOs should adopt conflict of interest rules, particularly in the case of civil society organisations that receive public funding.

Regional and Local Governments

The conflicting positions of elected politicians and the chief administrative officer should be reconciled through more administrative and professional/technical support to CAOs, who are the local 'guardians of legality'.
In the market environment, local government with significant business property of its own needs technical support and improved professional capacity to deal with issues of public-private partnerships, assessment of complex business models and managing cost-benefit analysis.
Local government influence over growing public utility companies and holdings of community service provision must be increased by introducing controlling and management information systems by cost/profit centres.
Public procurement practices should be improved by making the entire decision-making process over tendering more transparent and by using e-procurement techniques.
Standard local conflict of interest regulations and codes of conduct should be disseminated among local governments. On the basis of these, codes tailored to local circumstances and specificities should be adopted.
Administrative accountability should be improved through horizontal networks: technical support to professional associations for establishing systems of performance and financial benchmarks.
A fiscal information system should support local decision-making. A the local level, public fiscal reports should be made available for independent policy research and policy design by the Ministry of Finance or the State Treasury.
Internet-based information-sharing should be supported in small towns and villages.
Design and extended use of citizens' charters should be initiated and publicised.
Rules of post–public employment must be adjusted to local conditions.

International Institutions

Additional technical and financial assistance is necessary from IIs for the successful implementation of anti-corruption laws.
Websites of IIs active in Hungary should have relevant pages translated into the local language; codes of ethics and conflict of interest regulations should be widely accessible for Hungarians.

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[57] Besides the ones defined in the Act there are several organisations that exercise lobby activities such as NGOs.
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[59]Website of the Ministry of Law and Justice http://irm.gov.hu/download/antikorrupctestulet.doc/antikorrupctestulet.doc [Accessed 30 September 2007].
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[76] Act No. 57 of 2006 (Public Administration Act), Article 71.
[77] Act No. 57 of 2006 (Public Administration Act), Article 73.
[78] Public Administration Act, Articles 26., 32., 43. and 55.
[79] Act No. 38/1992. on Public Finances.
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[81] ttp://www.asz.hu/ASZ/jeltar.nsf/0/2DFF82C9CB9AD147C1257348002626E4/$File/0724J000.pdf.
[82] Constitution, Article 33.
[83] Budgetary Office is to be established till the end of the year 2007 as an independent parliamentary organ whose goal is to enforce the control over budgets proposed by the government. See the coalition agreement signed by the coalition parties on 1 July 2007 – http://www.index.hu/politika/belfold/koal070701 [Accessed 31 July 2007].
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[85] See Decision no. 50/2003 of Constitutional Court.
[86] Constitution, Article 39.

[87] Act LIII of 2004 on co-operation between the Parliament and the Government in matters in connection with European integration.
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[89] Act on public administration, Article 9.
[90] In Hungary since the beginning of the peaceful democratic transition (1990) there have been 11 Ministers of Finance in five governments.
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[105] Act on public administration, Article 6.
[106] Act on public administration, Article 10.
[107] Each asset of declaration is available. See for instance the asset of declaration of the Minister Of Justice and Law Enforcement http://www.meh.hu/misc/letoltheto/takacs_a_2007.pdf [Accessed 8 August 2007]
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[110] Act No. XLIX of 2006 on lobbying.
[111] Act No. XLIX of 2006 on lobbying activities, Article 33.
[112] HCC Section 257.
[113] Detailed statistics provided and collected by Mátrainé Berkes Tünde (Head of the Statistical Department, Ministry of Justice and Law Enforcement).
[114] Interview with a Public Prosecutor, 5 July 2007.
[115] Act No. LXXXVII of 2006 on immunity gives a global picture on immunity regulation in Hungary.
[116] The criminal proceedings against the political state secretary (Béla Szabadi) of the Ministry of Agriculture and Rural Development started in 2003, and the former minister was interrogated as a witness in the process. The prosecution charged the political state secretary with misappropriation of funds, fraud and embezzlement. The pecuniary injury caused by the crimes is more than 2 billion HUF. As the case stands at present, Béla Szabadi received two years of imprisonment, but the sentence is suspended for four years. The Budapest Metropolitan Court found him guilty for abuse of authority. See http://nol.hu/cikk/421214/ [Accessed 31 July 2007].
[117] Constitution, Article 57.
[118] Constitution, Article 50.
[119] This Act was preceded by Constitutional Court Decision No. 32 of 1990. which forced the legislation to ensure legal remedy to administrative or other official decisions.
[120] General rules are laid down by Act No. 140 of 2004 on the General Rules of Public Administrative Procedures and Services and Act III of 1952 on Civil Procedure.
[121] The Prime Minister's Office denied disclosing the draft of the amendment of the Act on Freedom of Assembly. The Prime Minister won the case. See http://nol.hu/cikk/444062 [Accessed 31 July 2007].
[122] The Minister of Justice and Law Enforcement denied disclosing the draft of the new Constitution. The Minister was sued by HCLU for infringement of freedom of information, but the Minister won the case. See http://www.tasz.hu/index.php?op=contentlist2&catalog_id=4116 [Accessed 6 August 2007].
[123] For more information see http://www.tasz.hu/index.php?op=contentlist2&catalog_id=552 [Accessed 4 August 2007].

[124] On 16 May 2006 elections representatives of five parties had been given a mandate, thus the composition of the Parliament is the following: Hungarian Socialist Party (MSZP) - 190; FIDESZ-Hungarian Civic Union and the Christian Democratic People's Party - 164 ; Liberal Democrats (SZDSZ); 20 Hungarian Democratic Forum (MDF) 11 (MPs).
[125] See for instance the so-called Oil Committee of the Parliament, a fact-finding committee on possible cases of corruption in relation to organised crime and the oil business; established in 1999. http://www.mkogy.hu/internet/plsql/ogy_irom.irom_adat?p_ckl=36&p_izon=1793. [Accessed 6 August 2007]
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[127] Act no. CXXVII of 2006.
[128] Act no. LVI. of 1990. on the allowance, refunds and benefits to the members of the National Assembly.
[129] Kapcsándi, D. – Kozák, D.: *Unwillingly* http://www.origo.hu/itthon/20030404nemszivesen.html., http://www.origo.hu/itthon/20030403kepviselo.html [Accessed 6 August 2007].
[130] See for example: Debate on Compensations for MPs. http://www.rtlklub.hu/hirek/hazank/?id=0605224428, see also *Magyar Narancs*, 1 March 2007.; http://index.hu/politika/belfold/kltsgtrts570/ [Accessed 2 August 2007].
[131] Decision No. 62 of 2003 of the Constitutional Court.
[132] Constitution, Art. 26. For further details: Kukorelli, I.: *Theory of Constitutional Law*, Osiris Press, page 428-431, Budapest, 2007.
[133] See the GRECO report of the first round evaluation of Hungary Greco Eval I Rep (2002) 5E Final, adopted by GRECO at its 13th Plenary Meeting (Strasbourg, 24-28 March 2003); available at http://www.coe.int/t/dg1/greco/evaluations/round1/GrecoEval1(2002)5_Hungary_EN.pdf. [Accessed 28 July 2007].
[134] Much information is directly available on the official website of the Assembly: www.mkogy.hu.
[135] Further information at http://www.mkogy.hu/internet/plsql/ogy_irom.irom_adat?p_ckl=38&p_izon=4038. [Accessed 6 August 2007].
[136] http://www.mkogy.hu/internet/plsql/ogy_irom.irom_adat?p_ckl=37&p_izon=11076. [Accessed 10 August 2007].
[137] Act No. XLIX. of 2006 on lobbying activities.
[138] *Magyar Narancs*, 1. December 2005.; *Magyar Narancs*, 31 August 2006.
[139] Act LV. of 1990. appendix.
[140] Act LV. of 1990.
[141] Act LV. of 1990 4.§ – 7.§;Decision No. 34 of 2004. of the Constitutional Court, ABH 2004. 490. – 504. p.
[142] Decision of the Supreme Court No. 51 of 1999.
[143] Further information and statistics on the reports presented to the Parliament may be found at: http://www.mkogy.hu/fotitkar/ellenorzes/ell_beszamolot.htm. [Accessed 6 August 2007].
[144] Act II of 1989 on the Freedom of Association, Act XXXIII of 1989 on the Operation and Financial Management of Political Parties and Section 3, Subsection (1) of the Constitution of the Republic of Hungary.
[145] §2, Section (3) of the Constitution.
[146] §4 (1) of Act XXXIII of 1989.
[147] §4 (3) of Act XXXIII of 1989.
[148] §9 (2) of Act XXXIII of 1989.
[149] Act C of 1997.
[150] http://ekint.org/dl/apartfinanszirozasalapelvei.pdf [Accessed 6 August 2007].
[151] §9 (1) of Act XXXIII of 1989.
[152] Act V of 1997.
[153] *Állami vezetők szponzorált útjai (Sponsored journeys of high ranking state officials)* Index.hu, June 12, 2003, http://index.hu/politika/belfold/utazas0612/. [Accessed 6 August 2007].
[154] Act V of 1997, §16 (1).
[155] Act V of 1997, §14.
[156] Félix, P.: *Füstbe ment tervek (Lost plans),* Magyar Narancs December 5, 2002.
[157] SAO Report on the interim parliamentary elections of October 1999 and April 2000 (http://www.asz.hu/ASZ/www.nsf) [Accessed 31 July 2007].
[158] See the bylaws of MDF (§63) and Fidesz (§10), e.g. (http://part.mdf.hu/index.php?akt_menu=841, and http://www.fidesz.hu/download/Alapszabaly_2007_vegleges_.doc) [Accessed 31 July 2007].
[159] Act No. C of 1997, 21. § (2).
[160] Act No. C of 1997, 21. § (1).
[161] Act No. C of 1997, 23. § (1)-(4)
[162] Act No. C of 1997, 23. §.
[163] Act No. C of 1997, 21. § (3).
[164] Act No. C of 1997, 21. § 21. (3).
[165] Act No. C of 1997, 28. § (1).
[166] Annex 1 to Act No. C of 1997.
[167] Act No. C of 1997, 28. § (4).
[168] Act No. C of 1997, 26. § (4) d).
[169] The statement of the commissioner has been published in several newspapers and news portals*: A rendőrség is keresi az OVB kiszivárogtatóját (The Police seeks for the leaker in the NEC)*

<http://index.hu/politika/belfold/kalm382911>,[Accessed 31 July 2007] *Kölcsönös vádak a népszavazás kapcsán (Battle of words on the referendum)* <http://www.inforadio.hu/hir/belfold/hir-136214>,[Accessed 31 July 2007] *Változatlan formában továbbítottam a pártnak (I've transferred the data without any modification on them)* <http://www.hirszerzo.hu/cikk.valtozatlan_formaban_tovabbitottam_a_partnak.40032.html [Accessed 31 July 2007]. *Az adatvédelmi biztossal vitatkozik a Fidesz (Fidesz argues with the Data Protection Commissioner)* Népszabadság, 16, July 2007, 2.p., *Péterfalvi Attila szerint jogsértő az OVB gyakorlata (The practice of the NEC is unlawful according to the Commissioner),* Magyar Nemzet, 18 July, 2007, 1-3. pp., etc.

[170] Act No. C of 1997, 28. § (2).

[171] Act No. C of 1997, 29. § (1).

[172] Act No. C of 1997, 6. § (1).

[173] Act No. C of 1997, 3. § a).

[174] Act No. C of 1997, 21. § (1).

[175] Act No. C of 1997, 90/A § (4) a).

[176] 10/2006. (III. 30.) OVB.

[177] 19/2002. (IV. 18.) OVB.

[178] 13/2006. (IV. 13.) OVB.

[179] According to the reports of the minister responsible for interior affairs on the organisation and completion of the state's tasks related to the general elections of Members of Parliament and the representatives and mayors of local governments, and national referendums to the Parliament. (J/2 jelentés a 2006. április 9-én és 23-án megtartott országgyűlési képviselő-választás megszervezésével és lebonyolításával kapcsolatos állami feladatok végrehajtásáról, J/1893 jelentés a helyi önkormányzati képviselők és polgármesterek, valamint a települési kisebbségi önkormányzati képviselők, 2006. október 1-i választásának megszervezésével és lebonyolításával kapcsolatos állami feladatok végrehajtásáról.)

[180] Act No. C of 1997, 35. § (2).

[181] Act No. C of 1997, 35. § (1).

[182] Act No. C of 1997, 37. § (1).

[183] Namely the Act No. XXIII of 1992 on the Legal Status of Public Officials and the Act No. XXXIII of 1992 on the Legal Status of Civil Servants.

[184] Act No. C of 1997, 37. § (2).

[185] Act No. C of 1997, 35. § (3).

[186] Act No. C of 1997, 36. § (1).

[187] See endnote 179.

[188] Act No. C of 1997, 153. § (1) g).

[189] Information given by Emília Rytkó head of National Election Office via e-mail.

[190] 89/2005. (XII. 7.) OGY resolution.

[191] 8/2006. (II. 22) BM decree, 4/2006. (VIII. 1.) ÖTM decree.

[192] Act No. C of 1997, 81. § (4).

[193] Act No. C of 1997, 82. § (1).

[194] Act No. C of 1997, 84 § (7).

[195] Act No. C of 1997, 130. §.

[196] Act No. C of 1997, 90/A § (4) m), 99/K (5) o) 105/A (4) f).

[197] Act No. C of 1997, 153. § (3).

[198] Act No. C of 1997, 5. §.

[199] Act No. C of 1997, 21. § (1).

[200] Act No. C of 1997, 22. § (2).

[201] Act No. C of 1997, 22. § (4).

[202] Act No. C of 1997, 22. § (3).

[203] Act No. IV. of 1978 on the Criminal Code, 211. § (Crime Against the Order of the Elections, Referendum and Popular Initiative) 225. § (Abuse of Authority) 250-255/A §§ (Bribery).

[204] Act No. C of 1997, 6. § (1).

[205] http://www.valasztas.hu [Accessed 31 July 2007].

[206] Act No. C of 1997, 29. § (2).

[207] See the Act No. LXIII of 1992 on the protection of personal data and the disclosure of public interest and the Act No. XC of 2005 on the electronic freedom of information.

[208] Act No. C of 1997, 87. § (3), 99/C § (2).

[209] Act No. C of 1997, 90/A § (3) a) 99/K § (5) a), 105/A § (4) a), 115/I § (8) a), 115/P § (5) a), 124/A § (3) a), 131/A § a), 143/A § (4).

[210] Act No. C of 1997, 117. § (2).

[211] Act No. C of 1997, 129. §.

[212] http://www.magyarkozlony.hu [Accessed 31 July 2007].

[213] Act No. C of 1997, 87. § (2), 99/C § (1).

[214] Act No. C of 1997, 95. §.

[215] Act No. C of 1997, 29/C § (5).

[216] Act No. C of 1997, 77. § (1).

[217] Act No. C of 1997, 77. § (6).
[218] Act No. C of 1997, 77. § (2) b).
[219] Act No. C of 1997, 78. § (1).
[220] Act on SAO Article 17.
[221] Act on SAO Article 2.
[222] Professional rules of State Audit Office. http://www.asz.hu/ASZ/www.nsf/HTML/4121/$FILE/1%20EllKeziKonyv.pdf. 196. o.
[223] Resolution Parliament No. 9 of 1990.
[224] Kukorelli I, Theory of Constitutional Law, Osiris Press, 2007. p. 397.
[225] Act on SAO, Article 6.
[226] A person with higher education, empowered with decision-making authority and acting within the scope of duties and powers of the SAO, as well as performing either audits or substantive duties directly supporting audits, may be an auditor in accordance with the Act on SAO.
[227] SAO Audit Principles and Standards 8.8. Quality control and quality assurance.
[228] Act on SAO Article 10.
[229] Act on SAO Article 10.
[230] http://www.hirszerzo.hu/cikk.vesztegetes_sikkasztas_tiltakozas__mi_folyik_a_magyar_birosagok_falai_kozott.41950.html [Accessed 6 August 2007].
[231] See Act no. XIX. of 1998 on the Criminal Procedure, Arts. 95-98/A. §; Act no. LXXXV. of 2001 on the Protection Programme for persons participating in the criminal procedure and those assisting criminal justice; Governmental decree no. 34/1999. (II. 26.) on the criteria of applicability and the rules of enforcement of the Protection Programme for persons participating in the criminal procedure and those assisting criminal justice; Governmental decree no. 28/2002. (II. 27.) on the assistance to persons participating it the Protection Programme.
[232] http://nol.hu/cikk/462793/ [Accessed 10 August 2007].
[233] http://vg.hu/index.php?apps=cikk&cikk=129618&fr=hl [Accessed 30 July 2007].
[234] http://portal.ksh.hu/pls/ksh/docs/hun/xstadat/xstadat_eves/tabl2_01_16i.html [Accessed 31 July 2007].
[235] http://www.fn.hu/belfold/0705/egyeves_melyrepulesben_gyurcsany_kormany_163731.php.
[236] http://www.magyarorszag.hu/hirkozpont/hirek/kormany/kisspeter20060915.html [Accessed 31 July 2007].
[237] Borítékolva, HVG 16/2007.
[238] http://www.nol.hu/cikk/446771/ [Accessed 27 July 2007].
[239] Act VII of 1989 on strike, § 3 (2).
[240] Civil Servants Act § 10, Public Employees Act § 20/A.
[241] http://index.hu/gazdasag/magyar/kozti071012.
[242] The public service legal relationship may be (so the entity exercising employer's authority has discretionary jurisdiction) terminated upon dismissal if: a) work-force cut has to be implemented and the further employment of the public official is not possible for this reason; b) the activity of the public administration agency within the scope of which the public official was employed is terminated; c) the position has become unnecessary due to re-organisation; d) the public official is eligible for old-age pension.
[243] The public service legal relationship shall be terminated upon dismissal if a) the public administration agency is terminated without legal successor; b) the public official proves to be incapable of fulfilling the responsibilities; c) after withdrawing senior official assignment there are no vacant positions for the public official or if the public official does not give consent to the transfer to such position.
[244] http://www.nol.hu/cikk/451049/ [Accessed 31 July 2007].
[245] Government Decree 301/2006. (XII.23.).
[246] http://www.magyarorszag.hu/hirkozpont/hirek/fokusz/szetey20070220.html [Accessed 4 August 2007].
[247] http://www.fn.hu/karrier/0704/reform_nulladik_lepese_160936.php [Accessed 30 July 2007].
[248] http://www.meh.hu/szolgaltatasok/uvegzseb/kozerdeku/szerzodesek20040130.html, http://www.meh.hu/misc/letoltheto/kozszerz_200707.pdf [Accessed 31 July 2007].
[249] Public Employees Act § 42.
[250] Constitution § 50 (2).
[251] The number of cases filed in the first half of 2007 is 6,272. http://www.birosag.hu/engine.aspx?page=Birosag_Statisztikak [Accessed 9 August 2007].
[252] http://www.fovarosi.birosag.hu/evk2001/5biroit_2001.htm [Accessed 31 July 2007].
[253] http://www.obh.hu/allam/index.htm [Accessed 31 July 2007].
[254] http://vg.hu/index.php?apps=cikk&cikk=129618&fr=hl [Accessed 6 August 2007].
[255] Act XCVI of 2000 on several question on the legal status of local government representatives, § 5.
[256] Government Decree 53/2006. (III.14.).
[257] http://toosz.webalap.hu/cindex.php?p=pages/magyar/erdekkepviselet/allasfoglalasok/problema_leltar_az_egyes_onkormanyzatokat_erinto_torvenymodositasokhoz [Accessed 5 August 2007].
[258] http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2(2005)5_Hungary_EN.pdf [Accessed 29 July 2007].
[259] www.nfu.hu/download/859/at_arop_ember.pdf [Accessed 3 August 2007].
[260] http://www.esf.hu/sa/program/jogszabalyok/szakmai/Szoci%C3%A1lis%20munka%20etikai%20k%C3%B3dexe.pdf [Accessed 10 August 2007].
[261] http://www.police.hu/magyarendorseg/etikaikodex [Accessed 31 July 2007].

[262] Act XXIV of 2003.
[263] Civil Servants Act § 22/A.
[264] Hack, P.: *On the failures of anti-corruption politics*. http://beszelo.c3.hu/03/0708/04hack.htm [Accessed 31 July 2007].
[265] Public Employees Act § 20 (3), § 41/A (2).
[266] Civil Servants Act § 38.
[267] Act IV of 1978 on the Criminal Code § 255/B.
[268] http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2(2005)5_Hungary_EN.pdf [Accessed 31 July 2007].
[269] Criminal Code § 137.
[270] http://www.police.hu/data/1371006/bcs_k_ossz2002_2006.pdf [Accessed 28 July 2007].
[271] Act XXIX of 2004.
[272] Act I of 1977 on announcements, recommendations and complaints of general interest.
[273] Criminal Code § 257.
[274] official police-prosecution statistics: http://www.police.hu/statisztika/bunugy/ibcs070129.html [Accessed 3 August 2007].
[275] Zsuppányi, Zs.: *Korrupciós bűnügyi statisztikák (2003-2005) (Criminal Statistics on Corruption, 2003-2005)* in: Szente, Z. (Ed.): *Korrupciós jelenségek az önkormányzati közigazgatásban (Phenomena of Corruption in Local Government Public Administration)* Magyar Közigazgatási Intézet, Budapest, 2007, p. 97.
[276] see: Williams, H.: *Core Factors of Police Corruption Across the World Forum on Crime and Society,* Vol 2. No. 1. (2002), pp. 85-99 Krémer, F.: *A rendőri hatalom természete (The Nature of Police Power)* Napvilág Kiadó, Budapest, 2003, pp. 218-223.
[277] Szikinger, I. (Ed.): *A rendőri korrupció és megelőzése (Police Corruption and Its Prevention)*Rendészeti Kutatók Egyesülete, Budapest, p. 43.
[278] Act No. XXXIV of 1994 on the Police Articles 5 and 12.
[279] http://index.hu/politika/belfold/energol1113/
[280] 9/1997. (II. 12.) Decree of the Minister of the Interior, Article 33, Paragraph (9), Subparagraph g.).
[281] interview with retired Colonel of the Police, Head of Department at the Criminological Institute, Budapest, Mr. Geza Finszter (11 September 2007).
[282] Act No. LXXX. of 1994. on the Service Relations of Prosecutors and on Data Processing within the Prosecution System, Article 36.
[283] 9/1997. (II. 12.) Decree of the Minister of the Interior, Article 33, Paragraph (9), Subparagraph g.)
[284] http://www.police.hu/magyarendorseg/etikaikodex, http://www.kriminalexpo.hu/uoe/etkodex.htm [Accessed 10 August 2007].
[285] Act No. XC. of 2007, on Amending the Police Act, Article 6.
[286] interview with retired Colonel of the Police, Head of Department at the Criminological Institute, Budapest, Mr. Geza Finszter (11 September 2007).
[287] Act No. XLIII. of 1996 on Service Relations of Professional Members of Armed Organs, Article 21.
[288] see e.g.: http://www.police.hu/uvegzseb; [Accessed 31 July 2007].
[289] Administrative Law Unification Decision No. 1/1999.
[290] Act No. XC. of 2007, on Amending the Police Act.
[291] http://hungarian.hungary.usembassy.gov/uploads/images/5cKAu_wm8vr1JFZ91nnqGA/hrr [Accessed 12 August 2007].
[292] Szikinger, I. (Ed.): *A rendőri korrupció és megelőzése (Police Corruption and Its Prevention)*
Rendészeti Kutatók Egyesülete, Budapest, p. 47.
[293] Bárkányi, J.: *Ítélet helyett (Instead of a Sentence)* Belügyi Szemle, Vol. 51. No. 11-12. pp. 206-211.
[294] see: Presumption of Guilt, Hungarian Helsinki Committee, Budapest, 2005. also: interview with retired Colonel of the Police, Head of Department at the Criminological Institute, Budapest, Mr. Geza Finszter (11 September 2007).
[295] Transparency International; http://www.transparency.org/global_priorities/public_contracting We have to take notice of the fact that given the sensitive nature of the issue, corruption is rarely addressed directly and in professional literature or in newspapers. We have therefore put the emphasis on personal experiences and questions in interview.
[296] This Act — which is not in force now — is Act XL of 1995 on Public Procurement.
[297] See in this regard: Patay, G.: *A közbeszerzés joga. Kommentár a gyakorlat számára*. *(The Right for Public Procurement. Comments for Practice)* 4., átdolg. kiad. Budapest, 2006. 18 – 19. pp The new Act on Public Procurement is Act No. CXXIX of 2003.
[298] It should be also noted, that 65,3 per cent of the procedures were conducted through open bidding - The Yearly Report of the Public Procurement Council, July 2006.
[299] Interview with Hungarian businessman active on foreign markets on 20 June 2007. It is also important to keep in mind that we had to maintain strict anonymity when asking about practical experiences, because this topic is obviously a quite sensitive one.
[300] Act No. CXXIX of 2003 on Public Procurement, Article 3.
[301] Interview with managing director of an affiliate of a foreign company on 26 June 2007, interview with public procurement consultant on 25 June 2007.
[302] Act No. CXXIX of 2003 on Public Procurement, Articles 63 – 69.
[303] Interview with a procurement consultant on 25 June 2007, and managing director of an affiliate of a foreign company on 26 June 2007.
[304] Act No. CXXIX of 2003 on Public Procurement, Article 303.

[305] *Number* of public procurements in Hungary

Type of the procedureNumber of procedures in 2004
%Number of procedures in 2005
%Year 2005/2004

%Open procedure
Procedure with a notice for invitation
Negotiated procedure
Within: Negotiated
procedure without
a notice
Simplified procedure73.6
0.8

891 24.4
568 15.6

45 1.22470 65.3
68 1.8

24.5
17.1

318 8.491.8
212.5

103.9
113.9

706.7□□ 3658 1003782 100103.4

Value of Public Procurements in Hungary (in billion HUF)

Type of procedureNumber of procedures in 2004
%Number of procedures in 2005
%Year 2005/2004
%Open procedure
Procedure with a notice for invitation
Negotiated procedure
Within: Negotiated
Procedure without
a notice
Simplified procedure897.6 79.5
8.3 0.8

216.5 19.5
108.3 9.6

7.3 0.6 598.4 46.3
25.2 2.0

638.1 49.4
191.9 14.9

29.6 2.366.7
302.7

294.7
177.2

405.5□□ 1.129.7 1001.291.3 100114.3

[306] Kis, G.: Decline in public procurement. http://www.magyarhirlap.hu/cikk.php?cikk=132207 [Accessed 4 July 2007].
[307] Kis G. Decline in public procurement. http://www.magyarhirlap.hu/cikk.php?cikk=132207 [Accessed 4 July 2007].
[308] As the projects are in development or underway we are not in a position to produce estimates in relation to this question.
[309][272] Act No. CXXIX of 2003 on Public Procurement, Articles 375 – 376.

[310] For the activity of the Secretariat of Public Procurement Council see: Report of Public Procurement Council to the Parliament, 2005. p. 21. http://www.kozbeszerzes.hu/index.php?akt_menu=280 [Accessed 8 July 2007].
[311] Deed of Foundation of Public Procurement Council, page 2 – 3. The Deed of Foundation is available: http://www.kozbeszerzes.hu/index.php?akt_menu=278&details=511 [Accessed 5 July 2007].
[312] Competence of the Council
(1) the Council shall: a) monitor the enforcement of the provisions of this act and initiate the drafting and amendment of legal regulations related to public procurement with the responsible bodies;
b) assess and evaluate draft legislation related to public procurement and to the Council;
c) prepare directives within the framework of legal regulations related to public procurement, for the enforcement of such regulations;
d) determine the number of members of the Public Procurement Arbitration Committee;
e) appoint and recall the chairman and deputy chairman of the Public Procurement Arbitration Committee, as well as public procurement arbitrators; and shall hear cases aoncerning the incompatibility of public procurement arbitrators;
f) maintain and publish the register of conciliators referred to in chapter XI; and shall be vested with powers to supervisethe activities of conciliators; draw up the code of ethics relating to conciliators;
g) maintain and publish the register of official consultants for public contracts;
h) maintain and publish the official register of qualified tenderers, determine the qualification criteria and the approved ways of evidencing qualification;
i) publish the register of accredited attestors; and shall be vested with powers to supervise the activities of accredited attestors;
j) provide for the editing of the 'Public Procurement Newsletter - the official publication of the Council of Public Procurement' in printed format; provide for the control and publication of notices for contract award procedure and design contests; publish the resolutions passed by the Public Procurement Arbitration Committee along wit the definitive court rulings concerning the judicial review of such resolutions; publish the list of tenderers banned from public contracts (also indicating the length of exclusion), the directives referred to in paragraph c), and other announcements related to public procurements;
k) monitor the amendments and fulfillment of public contracts concluded following the award procedure [subsection (4) of section 307];
l) keep records on contracting entities and public procurements, including the annual volume of public procurement procedures, and the unit prices to be paid for purchases implemented by public procurement procedures; prepare annual statistical reports;
m) supervise, coordinate and promote the education and further training of persons participating in public procurement procedures;
n) maintain contact with public procurement organizations of other states, and with international organisations;
o) adopt its own organisational and operational regulations and other internal regulations related to its operation, such as the procedural order for the implementation of review procedures in connection with tender notices, and furthermore, related to its budget proposal and annual budget report;
p) perform the duties prescribed in this act and in other acts.
(2) the Council shall file a report each year to Parliament on its observations related to the fairness and transparency of public contracting practices, as well as on its activities. The report shall contain statements and remarks regarding the extent to which the provisions of this act correspond with the requirements of the rules of the national economy and public finances, and the manner in which consistence therewith may be ensured. The report shall also be sent to the State Audit Office for information purposes.
(3) Publication of the public procurement newsletter shall be governed by the provisions on the publication of the official Hungarian Gazette (Magyar Közlöny) and other official journals as laid down in the legislation act and the legal regulations on its implementation.
[313] Section 395. of PPA (about the organisation of the Council):
(1) the Council shall operate a Public Procurement Arbitration Committee (hereinafter referred to as 'Committee') for the purpose of reviewing cases in connection with unlawful or disputed cases relating to public procurements and design contests.
(2) funding for the Committee shall be allocated from the Council's budget.
(3) the Committee consists of public procurement arbitrators who are in a public service legal relationship with the Council, and are appointed and dismissed by the Council.
(4) the chairman and deputy chairman of the Committee are elected for a five-year term from among the public procurement arbitrators by a two-thirds majority vote of the members present. The deputy chairman shall be nominated by the chairman of the Committee. The chairman and deputy chairman of the Committee may be re-elected.
(5) the chairman of the Committee shall be entitled to receive the remuneration, and other benefits, prescribed for sectoral state secretaries. The deputy chairman shall be entitled to the salary of senior department heads.
Section 396. of PPA:
(1) the chairman of the Committee shall:
a) direct the Committee's work;
b) represent the Committee;
c) exercise employer's rights - apart from the deputy chairman - over public procurement arbitrators;
d) draw up the Committee's organizational and operational regulations and shall submit it to the Council for approval;
e) monitor compliance with the administrative time limit;
f) provide for the publication of the decisions of the Committee.
(2) the deputy chairman of the Committee shall be vested with full authority when substituting for the chairman in his absence.

[314] Some examples from the PPA:
- The Council shall appoint and recall the Chairman and Deputy Chairman of the Committee, as well as public procurement arbitrators; and shall hear cases concerning the incompatibility of public procurement arbitrators [Article 379 (1) e)].
- The Council shall determine the number of members of the Committee [Article 379 (1) d)].
- Funding for the Committee shall be allocated from the Council's budget [Article 395 (2)].
- Public procurement arbitrators are appointed and dismissed by the Council [Article 395 (3)].
- Chairman and Deputy Chairman of the Committee are elected by the Council [Article 395 (4)].

The Chairman of the Committee shall draw up the Committee's organisational and operational regulations and shall submit it to the Council for approval [Article 396 (1) d)].

[315] Act No. CXXIX of 2003 on Public Procurement, Articles 17-17/B.

[316] Act No. CXXIX of 2003 on Public Procurement, Article 53.

[317] Based on the results of a questionnaire drawn up to provide a picture of the status of public procurement and sent to several Hungarian and non-Hungarian businessmen, financial advisors, entrepreneurs and also experts on public procurement.

[318] Based on the results of a questionnaire drawn up to provide a picture of the status of public procurement and sent to several Hungarian and non-Hungarian businessmen, financial advisors, entrepreneurs and also experts on public procurement.

[319] Joint interview with three tenderers, primarily active in the construction industry, conducted on 28 June 2007.

[320] HCC, Article 250 – 255.

[321] Published Decision No. 3 of 2004.

[322] HCC Article 296/B.

[323] Act No. CXXIX of 2003 on Public Procurement, Article 60.

[324] Joint interview with three tenderers, which are mainly active in the construction industry on 28 June 2007.

[325] Interview with a procurement consultant on 25 June 2007, and with the managing director of an affiliate of a foreign company on 26 June 2007.

[326] Only the Conciliation Committee of the Public Procurement Council have such an instrument. See http://www.kozbeszerzes.hu/index.php?akt_menu=291&PHPSESSID=4c339c57ee7e3cc404129280d93565ce [Accessed 12 July 2007].

[327] Act No. CXXIX of 2003 on Public Procurement, Article 1, para. (1). It is interesting to note that this is a general principle of public procurement law. According to Prof. Imre Vörös the general principle should express the range of the ideas of the whole act, See: Vörös, I.: *Verseny, kartell, ár*. Budapest, TRIORG Kft., 1991. p. 67. We have to take into consideration the Resolution No. D.423/12/2005. of the Commission for Public Procurement, according to which one can only allege a breach of the general principles if there is no identifiable breach of a concrete regulation in the Act.

[328] Act No. CXXIX of 2003 on Public Procurement, Article 5.

[329] In this regard, see: www.kozbeszerzes.hu. [Accessed 12 July 2007].

[330] http://www.k2a.hu/mainframe.htm [Accessed 12 July 2007].

[331] Act No. LIX of 1993, 2 § (1)

[332] Act No. LIX of 1993, 8 §

[333] Act No. XX of 1949, 32/B § (4)

[334] Act No. LIX of 1993, 4 § (5)

[335] Act No. LIX of 1993, 3 § (3)

[336] Act No. LIX of 1993, 3 § (2)

[337] Act No. LXIII of 1992, 23 § (1)

[338] Act No. LIX of 1993, 15 §

[339] Act No. LIX of 1993, 2 § (2)

[340] http://www.obh.hu/allam/2006/tar2006.htm [Accessed 12 July 2007]

[341] Act No. LIX of 1993, 28 § (4)

[342] Act No. LIX of 1993, 28 § (3)

[343] Act No. CXXVII of 2006

[344] Act No. LIX of 1993, 27 §

[345] See file no. J/2098 of the Parliament.

[346] For the exact numbers of votes see the Annual Report of the Parliamentary Commissioners' Office for 2006, point 3.1.

[347] Act No. XX of 1949, 27 §

[348] Act No. LIX of 1993, 5 §

[349] Act No. LIX of 1993, 15 § (4)

[350] Act No. IV of 1978, 225 § and 250-255/A §§

[351] Act No. LIX of 1993, 5/A §

[352] Act No. LIX of 1993, 15 § (6)

[353] Barnabás Lenkovics, 2007.

[354] Act No. XX of 1949, 32/A § (4)

[355] Albert Takács, 2007.

[356] Act No. XX of 1949, 33 § (4)

[357] Péter Polt, 2000.

[358] Act No. XX of 1949, 52 § (1)
[359] Act No. LIX of 1993, 27 § (2)
[360] http://www.obh.hu
[361] Act No. LIX of 1993, 16 § (1)
[362] Act. No. LXXVII of 1993, 20 §
[363] Act No. LXIII of 1992, 27 § (1)
[364] Act. No. LIX of 1993, 19 § (2)
[365] Act. No. LIX of 1993, 16 § (4)
[366] Act No. LXIII of 1992, 27 § (2)
[367] See the Annual Report of the Parliamentary Commissioners' Office for 2006, point 3.1.
[368] Act No. LXIII of 1992, 2 § 4
[369] Act No. LXIII of 1992, 19 § (3)
[370] Act No. LXIII of 1992, 19 § (6)
[371] Act No. LXIII of 1992, 2 § 5
[372] For the summary of the ombudsman's practice see file no. 1234/H/2006.
[373] There have been several initiatives from within the government or from the parliamentary opposition for setting up anti-corruption bodies. The Military Ethics Council was established by order of the Minister of Defence 67/2003. (HK 18.), to pursue consultative, and co-ordinating responsibilities, offer opinions and make proposals. The Ethical Council of the Republic was established on the initiative of the Prime Minister Péter Medgyessy, and consisted of ten public figures (mainly professors of law) entrusted with drafting an ethics code of public life and helping to promote ethical norms in legislation and the practice of law. The council functioned from 19th June 2003 to 24th February 2004, when the president of the council Pál Solt (a former President of the Highest Court) and three other members resigned. In its period of functioning the council produced only the first draft of an ethical code. The 2006 election programme of the Hungarian Democratic Forum included the setting up of an Office of Clean Hands which would have been an anti-corruption agency with wide investigative powers (http://www.mdf.hu/index.php?akt_menu=171). [Accessed 20 July 2007].
[374] 15/1994. (VII. 14.) order of the minister of interior on the scope of authority and competence of police investigative authorities.
[375] 312/2006. (XII. 23.) governmental order on Governmental Control Office
[376] 312/2006. (XII. 23.) governmental order on Governmental Control Office, article 1.
[377] The only exception might have been the report on the secondary school final exam scandal in 2005, which was disclosed by the GCO, following the decision on disclosure by the cabinet. The 2302/H/2005 recommendation of the Data Protection and Freedom of Information Ombudsman comprises several cases where the GCO refused to disclose its reports requested under the Act LXIII of 1992 on the Protection of Personal Data and Public Access to Data of Public Interest. (see page 79-114 of the 2005 Annual Report of the of the Data Protection Commissioner, at: http://abiweb.obh.hu/dpc/annual_reports/2005/ar_dpc_2005.pdf) [Accessed 12 July 2007].
[378] 1011/2004. (II. 26.) governmental decree on Advisory Body for Public Life without Corruption. The Government abolished the position of the Secretary of Public Funds on the 6th October 2004 and transferred its responsibilities to the Ministry of Justice.
[379] 28 April 2005, 12 July 2005, 9 November 2006, 16 April 2007 – according to the 30 January 2007 letter of the Minister of Justice and Law Enforcement sent in response to the Hungarian Civil Liberties Union's request under freedom of information request and the proposal of the 6th September 2007 of the Anti-corruption Coordination Board meeting. The fourth meeting was mentioned in the proposal of the Ministry of Justice for the 6th September 2007 meeting of the ACB.
[380] 1037/2007. (VI. 18.) governmental decree on tasks concerning the fight against corruption
[381] 1023/2001. (III. 14.) governmental decree on governmental strategy against corruption
[382] Proposal of the Ministry of Justice for the 6th September 2007 meeting of the ACB, page 6
[383] Minister of Health, Minister of Economy and Transport, Minister of Finance, Minister of Justice and Law Enforcement, Minister of Local Government and Regional Development and the Minister leading the Office of the Prime Minister.
[384] The representatives of the President of the State Audit Office, President of the Hungarian Competition Authority, President of the Public Procurement Council, the Head of the office of the National Judicial Council, the Data Protection Commissioner and the Chief State Prosecutor.
[385] Transparency International, Pénzügykutató Rt, Társaság a Szabadságjogokért (Hungarian Civil Liberties Union), dr. Farkas Ákos, dr. Finszter Géza, dr. Hack Péter
[386] 1074/2007. (X. 1.) Government decree on the assignments of the Governmental Commissioner for the 'New order and freedom' programme
[387] the 1037/2007. (VI. 18.) governmental decree provides the financial basis for one more civil servants for the accomplishment of the decree
[388] 1037/2007. (VI. 18.) governmental decree on tasks concerning the fight against corruption
[389] proposal of the Ministry of Justice for the 6th September 2007 meeting of the ACB, page 50
[390] Report of the State Audit Office on the audit of the chapter of the Office of the Prime Minister, Nr. 0612, June 2006.
[391] Report of the State Audit Office on the audit of the chapter of the Office of the Prime Minister, Nr. 0612, June 2006.
[392] 193/2003. (XI. 26.) Government decree on budget control of public budget bodies
[393] rules of procedure 6.§
[394] 2302/H/2005 recommendation of the Data Protection and Freedom of Information Ombudsman
[395] 312/2006. (XII. 23.) governmental order on Governmental Control Office

[396] http://www.tasz.hu/index.php?op=contentlist2&catalog_id=3977 [Accessed 25 July 2007].
[397] Immediately after the establishment of the ACB was covered in the media, several individual complaints were filed at the body, which were forwarded to the responsible authorities with investigative powers. In: proposal of the Ministry of Justice for the 6th September 2007 meeting of the ACB, page 52
[398] Act XXIX of 2004 on amendments of Acts with regard to the accession to the European Union, on rescinding provisions of Acts and on defining provisions of Acts, Art. 141-143.
[399] The Acts of Parliament which amend dozens of other Acts in the same piece of legislation, without any necessary correspondence in the content of the amended Acts are generally known as 'Salad Acts'. This legislative technique is rather dangerous from the poitn of view of the transparency of the legal system.
[400] Art 257.
[401] 312/2006. (XII. 23.) governmental order on Governmental Control Office, article 9.
[402] Constitution, Article 61.
[403] Lampé, Á.: *A parlamenti ülések és a nyilvánosság*, [Parlamentary Sessions and the Publicity], Médiakutató, 2006/3
[404] Decision of the Constitutional Court 523/E/2000.
[405] Bajomi-Lázár, P.: *Az Alkotmánybíróság szereptévesztése* [The Failure of the Constitutional Court], Élet és Irodalom, July 6, 2007
[406] Kerekes, Zs.: *Hol tart ma az információszabadság*? [How Far Freedom of Information Has Got To?], Élet és Irodalom, 48/44
[407] 'I would publish every decision' – Interview with Zoltán Lomnici, President of National Judicial Committee, HVG 2007/26. http://hvg.hu/hvgfriss/2007.26/200726HVGFriss147.aspx
[408] Research study by Borbála Tóth.: *Labor Relations and the Media in Hungary*, 2007
[409] Research study by Mária Vásárhelyi to be published by the end of 2007 (public-opinion research on a representative sample of 800 journalists in 2006)
[410] Gálik, M.: *A médiatulajdonlás hatása a média függetenségére és pluralizmusára Magyarországon* [The Effect of Media Ownership to the Independence and Pluralism of the Media in Hungary], *Médiakutató* 2004/3
[411] Gálik, M.: *A médiatulajdonlás hatása a média függetenségére és pluralizmusára Magyarországon* [The Effect of Media Ownership to the Independence and Pluralism of the Media in Hungary], Médiakutató 2004/3
[412] On the local level, there are local papers and local media owned by non-profit organizations or companies established by municipal governments.
[413] Gálik, M.: *A médiatulajdonlás hatása a média függetenségére és pluralizmusára Magyarországon* [The Effect of Media Ownership on the Independence and Pluralism of the Media in Hungary], Médiakutató 2004/3
[414] Gálik, M.: *A médiatulajdonlás hatása a média függetenségére és pluralizmusára Magyarországon* [The Effect of Media Ownership to the Independence and Pluralism of the Media in Hungary], Médiakutató 2004/3
[415] National Radio and Television Board – Content Analysis of News Programmes, June 2007 http://www.ortt.hu/elemzesek.php?menu_id=53&parent=12&sub=13
[416] National Radio and Television Board – Content Analysis of News Programmes, June 2007 http://www.ortt.hu/elemzesek.php?menu_id=53&parent=12&sub=13
[417] Gálik, M.: *A médiatulajdonlás hatása a média függetenségére és pluralizmusára Magyarországon* [The Effect of Media Ownership on the Independence and Pluralism of the Media in Hungary], Médiakutató 2004/3
[418] Antal, Zs.-Gazsó, T.: *Magyar médiahelyzet* [State of the Media in Hungary], 2005
[419] GfK Hungária Piackutató Intézet, A médiafogyasztás jellemzői és a hírműsorok általános megítélése (Characteristics of media usage and public opinion on news programmes), January 2007
[420] Szonda Ipsos, MTV alapkutatás [MTV Basic Research], December 2006
[421] National Radio and Television Board – Content Analysis of News Programmes, June 2007
[422] Annual Report of the Data Protection Commissioner of Hungary, 2000 - http://abiweb.obh.hu/abi/index.php?menu=beszamolok/2000/III/2/3
[423] Gálik, M.: *A médiatulajdonlás hatása a média függetenségére és pluralizmusára Magyarországon* [The Effect of Media Ownership on the Independence and Pluralism of the Media in Hungary], Médiakutató 2004/33
[424] HVG: Átalakuló média [Cganging Media], 20. October 2007
[425] http://www.origo.hu/itthon/20071019-484-milliot-nyert-gyarfas-tamas-cege-az-st-plusz-kft.html?pIdx=1
[426] Juhász, G.: *Pártkasszák titkai – Pénzképviselet* [Secrets of Party Chests], HVG 2007/29, 13-14.o.
[427] Research study by Mária Vásárhelyi to be published by the end of 2007 (public-opinion research on a representative sample of 800 journalists in 2006)
[428] Research study by Borbála Tóth: *Labor Relations and the Media in Hungary*, 2007
[429] Central Statistical Office: Average monthly net salary of intellectuals in the national economy (2001–)
[430] Research study by Mária Vásárhelyi to be published by the end of 2007 (public-opinion research on a representative sample of 800 journalists in 2006)
[431] ORTT: Ajánlás a magyar elektronikus médiumok számára a 2002-es országgyűlési választásokkal kapcsolatban; Ajánlás a magyar elektronikus médiumok számára a 2002-es országgyűlési választásokkal kapcsolatban [Recommendations for the Hungarian Electronic Media for the Parliamentary Elections of 2002/2006] http://www.ortt.hu/oldal.php?menu_id=69
[432] Kotroczó, R.: *A kiegyensúlyozottságról és a pártok megszólalási arányairól* [About the Balance and the Proportion of Speaking Possibilities on Parties, Balance and Campaing in the Media], 2007
[433] Bayer, J.: *A kiegyensúlyozottság vizsgálata – A Panaszbizottság jogi szabályozása* [Examination of Balance – Legal Regulation of the Complaints Committee], 2007

[434] The text can be found at www.meh.hu
[435] HVG: Átalakuló média [Cganging Media], 20. October 2007
[436] http://www.cij.hu/index.php/articles/c320/
[437] MTV Zrt. – Közszolgálati műsorszolgáltatási szabályzat [Public Broadcasting regulations], 2002
[438] Szűcs, L:. *Médiaetikai kódexek a mai Magyarországon* [Media Ethic Codes in Contemporary Hungary], A hír értékei, 2001
[439] Kaposi, I.-Vajda, É.: *Etikai dilemmák a megyar újságírásban* [Ethic Dilemmas is Hungarian Journalism], A hír értékei, 2001 37-39.o.
[440] Research study by Mária Vásárhelyi to be published by the end of 2007 (public-opinion research on a representative sample of 800 journalists in 2006)
[441] Interview with Mária Vásárhelyi, the author of a research study to be published by the end of 2007 (public-opinion research on a representative sample of 800 journalists in 2006) http://www.atv.hu/friderikusz/?q=node/869
[442] http://www.budapesttimes.hu/index.php?option=com_content&task=view&id=116&Itemid=27
[443] http://www.origo.hu/itthon/19991227robbantas.html
[444] http://www.netnap.hu/belfold/4670/
[445] http://www.origo.hu/itthon/20070905-megvizsgaltak-a-kurucinfo-korlatozasat.html
[446] *Politikai fegyverként is használják: hét helyreigazítási ügy egyetlen napon* [Used as Political Weapon: Seven Correction Actions on One Single Day], Népszabadság, 17 04 2007://nol.hu/cikk/443082/
[447] Magyar Narancs http://www.mancs.hu/index.php?gcPage=/public/hirek/hir.php&id=15314
[448] Index http://w.blog.hu/2006/11/16/strabagsag_itten_hordozak
[449] The general rules that apply to the establishment of organisations are the provisions of Act 2 of 1989 on the Right of association.
[450] Act No. 3 of 1989.
[451] Act No. 4 of 1990
[452] Bocz, J.–Cseh, J.–Kuti, É.-Mészáros, G.–Sebestény, I. 2002: *Non-profit organisations In Hungary*. KSH. Budapest, 2000. Pavluska V., 1999: Non-profit Sector. JPTE FEEFI, Pécs.
[453] Act No.50 of 2003 on the National Civil Fund
[454]. Act No.156 of 1997 on the public benefit organisations
[455] E.g., a limited partnership, a limited liability company or even a joint stock company.
[456] Article 74/G of the Civil Code contains the rules pertaining to public foundations.
[457] An amendment to the Civil Code (Act No. XCII of 1993) created a hybrid form of organisation, which belongs financially to the state and legally to the non-profit sector. The reason for introducing this form of organization standing on the borderline between the public and the civil sector was that the previous regulation allowed for the channelling of public money through foundations to the private sector. In addition to the objective of impeding abuses, the legislature also intended to create an organizational form in order to settle the transition of public duties from the state to the civil sector. These organizations provide institutional opportunities for an effective relationship – based on a mutual dependence on each other – between the governmental and the private sectors, while establishing a coherent system with the traditional organizations of civil society. Thereby, they contribute to the demolition of governmental forms of the non-profit institutional system and the greater undertaking of civil society in a way that may provide better opportunities for performing public duties on a higher level despite the decreasing state financial resources. Explanatory report to Act XCII of 1993.
[458] Act 156 of 1997 on Public Benefit Organizations
[459] The Act realized its main goal – to provide equal opportunity in receiving direct and indirect state support – by establishing a qualification system.
[460] Csanády, D.: *Improving Civil Society in Hungary. International Center For Non-For-Profit Law*. Budapest, July 22, 2004., p. 1.
[461] The 2006 NGO Sustainability Index
[462] State Audit Office 2002
[463] The National Core Curriculum (NCC) is the highest level regulatory document concerning the content of curricula. Its main function is to lay down the principles and conceptual basis of public education and, at the same time, ensure the autonomy of schools in selecting educational content. Government Decree No. 243/2003. (Dec 17.) on NCC.
[464] www.helsinki.hu , www.tasz.hu. [Accessed 11 September 2007].
[465] http://www.niok.hu/index.htm. [Accessed 18 July 2007].
[466] The alliance has a document named 'Strategy 2005-2008' which doesn't include any suggestions on dealing with corruption/bribery etc.
[467] Paragraph 3 of *Confederation of Hungarian Employers and Industrialists* Ethical Code states that the members undertake the obligation to conduct fairly in business activities.
[468] THE 2006 NGO SUSTAINABILITY INDEX 116. p. On that note, there is an increasing number of conferences, events, trainings and even awards related to CSR in Hungary. For-profit CSR consultant companies are eager to create demand for this emerging trend.
[469] Autonomous Trade Union Confederation; Democratic League of Independent Trade Unions; National Federation of Workers' Councils; National Confederation of Hungarian Trade Unions; Forum for the Co-operation of Trade Unions, Confederation of Unions of Professionals
[470] Freedom House, County report, www.freedomhouse.hu//images/NIT2007/hungary.pdf .; 207. p. [Accessed 26 August 2007].

[471] http://www.emla.hu/brandnewsite/index.shtml [Accessed 21 July 2007].
[472] National Statistical Office, http://portal.ksh.hu/pls/ksh/docs/hun/xftp/gyor/gaz/gaz20606. [Accessed 3 September 2007].
[473] Act 126 of 1996. on the Use of a Specified Portion of Personal Income Tax According to the Designation of the Taxpayer
[474] Translation. ICNL / ECNL, August 2005
[475] Voluntary activities in the public interest may be performed on the basis of a voluntary legal relationship established in a volunteer contract between the host organisation and the volunteer. The volunteer contract is an oral agreement, except in cases regulated in the law. It also states that 'a person being in a voluntary legal relationship with more than one organisation may receive per diem from only one organisation at a time, of which s/he is obliged to notify the other organisations'.
[476] Some indirect financial support has already been mentioned, such as the so-called 1% law, tax benefits for donations by individuals or companies, as well benefits for voluntary work.
[477] The Hungarian Parliament voted on June 23, 2003 to pass a groundbreaking new law setting up a National Civil Fund (Act No. 50 of 2003) The main purpose of the Fund is to provide institutional support to Hungarian civil organisations, at least 60% of its yearly income, whereas the remaining amount is to be spent on activities for the development of the sector. To finance the Fund, the Hungarian government provides the same amount collected by the actual taxpayers through their designations to CSOs under the 1% law each year.
[478] THE 2006 NGO SUSTAINABILITY INDEX 112. p.
[479] Csóka, I. :*The Relationship between Governmental and Cicil Sector in Hungray* IJNL (International journal on Non-profit Law), Vol. 3. Issue 1. http://www.icnl.org/journal/vol3iss1/ar_csoka1.htm, p.5.
[480] Hungarian Civil Liberties Union. www.tasz.hu. [Accessed 12 August 2007].
[481] The 2006 NGO Sustainability Index 114.
[482]Bullain, N.: *Hungary's Legal Environment for Endowment Building*. SEAL (Social Economy and Law Journal), Winter 2002-2003., p. 4.
[483] E. g. Report on financial control over foundation „Szabó Miklós' in years 2003-2004.; No. 0559
[484] Act No. 5 of 1989 on Service of Public Prosecutions and Act No. 2 of 1989 on Right to Association.
[485] Act 156 of 1997. on Public Benefit Organisations.
[486] Act No. 156 of 1997. on Public Benefit Organisations, Article 7, par. 1
[487] Act No. 156 of 1997. on Public Benefit Organisations, Article 8 and 9.
[488] Act No. 49 of 2006 Article 10. points e) and f).
[489] Act No. 49 of 2006 on lobbying activities Article 27.
[490] Minister of Justice Decree No. 6 of 1989.
[491] Government Decree No. 247/2005.
[492] Fülöp, S.: *Practise of court registration of association - comparative study*, EMLA – Non-profit sector analysis project, 2005.
Widely known case is FOR EACH OTHER - EACH FOR THE OTHER Public Benefit Foundation's procedure(2007).http://nol.hu/cikk/452731/, [Accessed 8 August 2007] http://hvg.hu/kkv/20070705_egymasert_alapitvany_tamogato_apeh.aspx. [Accessed 10 September 2007] .
[493] Fülöp, S.: *Practise of court registration of association - comparative study*, EMLA – Non-profit sector analysis project, 2005.
Widely known case is FOR EACH OTHER - EACH FOR THE OTHER Public Benefit Foundation's procedure(2007).http://nol.hu/cikk/452731/, [Accessed 8 August 2007] .
http://hvg.hu/kkv/20070705_egymasert_alapitvany_tamogato_apeh.aspx. [Accessed 10 September 2007] .
[494] Policies and Corruption Outcomes, http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/0 p. 4. [Accessed 10 September 2007] .
[495] 1999. February 23. Magyar Nemzet, p. 5.
[496] *Fight against corruption*. Ministry of Justice, Budapest, 2006., 9. p.
[497] Trade union membership and workplace presence have diminished continuously in Hungary in recent years. The 2004 Labour Force Survey indicates that union density stood at 16.9%, down from 19.7% in 2001, while 33% of respondents reported a trade union presence at their workplace, compared with 37% in 2001.
[498] Guidelines of governmental and civil relations. SZMM, 2006.
[499] The 2006 NGO Sustainability Index 111.
[500] LXV. 1990
[501] Eotvos Karoly Institute: Local democracy in the county capitals: www.ekint.org
[502] Know and understand it to be able to act (Ismerd, értsd, hogycselekedhess) EMLA, Bp. 2005.
[503] The 2006 NGO Sustainability Index. 116.
[504] Act No LXV. of 1990.
[505] Hajnal, Gy.: *Hopes and reality: the first decade of the Hungarian Local Government System in the eyes of the public*. in. Swianiewicz, P. (Editor) (2001): *Public Perception of Local Governments*. LGI/OSI, Budapest
[506] There are 2,133 CAO positions in Hungary and during the previous four election periods the following number of changes occurred in these 1,073, 1,215, 1,105, 1,231. 47 per cent of these changes happened with joint agreement between the council and the CAO. Half of the CAOs leaving the local governments remain in the public sector, either by being employed at another municipality (29 per cent) or finding other jobs in the public administration. Source: Deák, L. (2007): A jegyzők személyében bekövetkezett változásokról (1990-2006), ÖTM Önkormányzati Tájékoztató, 2007 április.
[507] Fogarasi, J.: *The Law of Local Governments*, Unio, 2004, 13-76 pp.

[508] Management of water and community solid waste services are provided by external, non-budgetary institutions in 85 per cent-90 per cent of local governments. In the smallest and the largest municipalities these service providers companies. Péteri, G. (2007): Nagyobb felelősség, átalakuló feladatok, új szerepek. MKI ROP 3.1.1 Központi Program. In public education 4-5 per cent of pupils are enrolled in schools outside the public sector (as private, church, non-profit entities, having a compulsory service contract with the local government).
[509] According the SAO report in 2006 only 493 local government (15 per cent) and 71 minority local governments have been audited. These figures in the previous years were similar: 888 in 2005, 521 in 2004, 473 in 2003.
[510] Módszertani segédlet az önkormányzatok ügyfélszolgálati valamint ügyfélfogadási tevékenységének továbbfejlesztéséhez.
[511] Soós, G, *et al,* (2002): The state of local democracy in Central Europe. OSI/LGI, Budapest

[512] Municipality of Érd, http://monitor.gallup.hu/etika/001115_erd.pdf, [Accessed 10 September 2007] .
[513] Town of Debrecen http://www.vagy.hu/cikk.php?id=1461., http://www.budapest.hu/engine.aspx?page=search&fastSearchFlag=1. [Accessed 10 September 2007] .
[514] Constitutional Court Decision No. 20 of 1990., Report of the Data Protection and Freedom of Information Commissioner. http://www.mkogy.hu/adatved_biztos/1997/284k1997.htm. [Accessed 13 September 2007] .
[515] Report of the Data Protection and Freedom of Information Commissioner http://www.mkogy.hu/adatved_biztos/1997/284k1997.htm [Accessed 9 August 2007] .
[516] Annual reports of the Public Procurement Committee, http://www.kozbeszerzes.hu/. [Accessed 16 August 2007] .
[517] Report on the Observance of Standards and Codes (ROSC), IMF, July, 2004
[518] Act on Personal Data Protection and Data of Public Interest 1992. (A személyes adatok védelméről és a közérdekű adatok nyilvánosságáról szóló 1992. évi LXIII. Törvény)
[519] Önkorkép, Tizenharmadik évfolyam, 6-7. szám, 2003.június – július
[520] http://www.fatf-gafi.org/dataoecd/43/53/34949558.pdf [Accessed 11 September 2007].
[521] http://www.cfcu.hu/uj/index.php?target=category&id=26&language=en [Accessed 26 August2007].
[522] Memorandum of Understanding. http://www.unodc.org/pdf/crime/corruption_hung_memoofu.pdf [Accessed 22 August 2007].
[523] Fighting Bribery and Corruption http://www.oecd.org/document/18/0,3343,en_2649_37447_35430226_1_1_1_37447,00.html [Accessed 10 September 2007].
[524] Such discussions were held in Budapest during May 4-16, 2006. Hungary: *Report on the Observance of Standards and Codes – Fiscal Transparency Module*. IMF Country Report No. 07/11
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