

Compliance with key implementation steps of the remedial measures as committed to by Hungary in the framework of the conditionality mechanism¹

17 November 2022

Table 1: Compliance with remedial measures due until 19 November 2022

Remedial measure	No	Key implementation step	Compliance	Main deficiencies of the commitment or its implementation
Integrity Authority	1	Adoption of a Government Decision providing for the tasking and the timeline for the establishment of the Integrity Authority	yes	
		Submission to the National Assembly of a Draft Act on the establishment of the Authority	yes, but with deficiencies	Authority has no powers to exercise on its own without requiring the cooperation of currently existing captured state agencies that often exhibit a high level of loyalty towards the government. No standing before criminal court. CSOs do not have standing as public interest litigants if state bodies – including the Authority – fail to act to tackle misuses of funds or step in for the recovery of these.
		Appointment of the board of the Authority	yes, but with deficiencies	The selection process was unfair and inadequate.

¹ The table follows the structure of the [annex](#) to the Commission's proposal for a Council implementing decision, with the exception of the reference to the general commitment regarding the independence of the judiciary.

		Beginning of the activities of the Authority	TBI	
Anticorruption Task Force	2	Adoption of the repealing of the Government Decision	yes	
		Submission to the National Assembly of a Draft Act on the establishment of the Authority (<i>sic</i>)	yes, but with deficiencies	The Task Force's role is limited; it will not be able to perform strong oversight functions, It won't be able to compensate for the lack of regular consultations with anticorruption experts in relevant topics. .
Strengthening the Anticorruption framework	3	Adoption of anti-fraud and anti-corruption strategies	yes, but with deficiencies	The strategy regarding the tasks of entities involved in the implementation of any Union financial support is to a great extent the repetition of the proposed remedial measures and provides little novelty on improving the transparency of EU funding, the evaluation of projects or the recovery of assets.
		Submission to the National Assembly draft legislation including on: Extension of the personal and material scope of asset declarations (including to relatives living in the same household with the person concerned)	yes, but with deficiencies	Real estate property exclusively used by office holders or their family members exempted from declaration. The reform does not cover a number of officeholders deciding about EU funds, such as mayors or leaders of government agencies. No provisions are proposed to establish regular controls and efficient sanctions (only due October 2023).
Public Interest Management Foundations	4	Adoption of the amending acts (Act CXLIII of 2015 on public procurement and Act IX)	yes, but with deficiencies	Conflict of interest rules for board members only on a case-by-case basis paving the way for discretion. Conflict of interest for board members is self-declaratory. No effective mechanism to challenge conflict of interest before court.

				No ban for members of the government and other senior public officials to hold membership in boards.
Judicial Review of prosecutors' decisions	5	Finalisation of the draft text of implementing regulations (necessary for the application of the review procedure) and adoption immediately after the entry into force of the new law	yes, but with deficiencies	Given the complexity of corruption cases, deadlines are too short for both the private prosecutor and the court. No reason to divert from the general CPO rules. No right to appeal against decisions of inadmissibility or on the merits of the case. Chilling effect of legal costs related to the obligation to retain legal counsel.
		Entry into force of the new law amending the Criminal Procedure Code following an ex ante review by the Constitutional Court initiated by the Government	no	Following the approval by the Constitutional Court of the original amendment to the Criminal Procedure Code, the Government introduced a draft to entirely replace it.
Strengthening audit and control mechanisms for the implementation of EU funds	6	Establishment of a Working Group	yes	
		Establishment of the DIAI (Directorate of Internal Audit and Integrity) in the Prime Minister's Office	yes / TBI	Call for applications for the staff positions have appeared on the website dedicated to the allocation of EU funds.
		Adoption of amendments of the relevant Government Decrees (413/2021 and 256/2021)	yes, but with deficiencies	While the new regulations have introduced staff rotation and stricter conflict of interest rules, there are still major gaps regarding transparency and social dialogue on the allocation of funds.
Reduction of single-bids in procurement procedures involving EU funds	7	Performance of the first audit by the EUTAF on the compliance with the Single Market Scoreboard methodology (and on individual data provision to the Commission and to the public if applicable)	N/A	There is no publicly available information on the implementation of this measure.
Single-bid reporting tool	9	Development of a new monitoring and reporting tool based on data sourced from the EPS	N/A	There is no publicly available information on the implementation of this measure.

		The Directorate General for Audit of European Funds (EUTAF) shall confirm through its audit that the single-bid reporting tool is fully functional and operational	N/A	There is no publicly available information on the implementation of this measure.
Electronic Public Procurement System (EPS)	10	Full operability of newly developed functions allowing for the structured search and export of data in the EPS also in a format processable by machine means	yes, but with deficiencies	The newly developed function is limited to certain information in the contract award notice on the results, which does not reveal, for example, the number and names of the invalid or unsuccessful tenderers, the names of the economic operators invited to tender, or the justification for the use of exceptional procedures or information on the performance and modification of the contracts.
Performance measurement framework	11	Development of a performance measurement framework, including the adoption of a Government Decision	yes	
Extended use of Arachne	15	Application of the procedures for the systematic and effective use of ARACHNE	N/A	
Strengthening cooperation with OLAF	16	Adoption of an act on the amendment to Act CXXII of 2010 on Nemzeti Adó- és Vámhivatal, by which the National Tax and Customs Administration will be designated as the competent national authority to assist OLAF	yes	
		Adoption of an act on the amendment to Act XXIX of 2004 to introduce a dissuasive financial type of sanction to be imposed in case an economic operator refuses to cooperate with OLAF	yes	Note, however, that the proposed HUF 1 million HUF (approx.. EUR 2500) fine might not necessarily have a dissuasive force in case of operators with higher turnover, even if it can be imposed repeatedly. To our knowledge, the detailed rules on fines have not yet been adopted.

Enhanced transparency of public spending	17	Send to the Commission an advanced draft of the legislative act setting out an obligation for all public bodies to proactively publish a pre- defined set of information on the use of public funds	N/A	
		Adoption of the above legislative act	yes, but with deficiencies	Leeway for (recurringly) qualifying information as internal data crucial for a decision-making process are not addressed. Transparency portal does not include all entities performing public duties Transparency portal does not include contracts only their meta data Legislative changes to speed up freedom of information litigations fail to address data managers' practice to systematically refuse or neglect data requests, while they put an incommensurate burden on data requesters who turn to the court , as fast paced court procedures with short deadlines to bring arguments are more challenging for requesters of information, who, in general, are under resourced compared to state agencies and publicly owned enterprises with non-exhaustible resources , being the usual defendants in FOI litigations.
Courts complying with the requirements of independence, impartiality and being established by law (<i>general commitment</i>)	+1		no	Despite a general commitment made by the Government, no legislative changes have been introduced to address long-known systemic problems undermining judicial independence.

Table 2: Remedial measures that require a longer implementation period and no immediate key implementing steps

Reducing the share of tender procedures with single bids financed from the national budget	8	To be implemented, gradually (in three steps) by 31 December 2024. No key immediate implementing step.
Adoption of an action plan to increase the level of competition in public procurement	1 2	The plan is to be adopted by 31 March 2023, taking into account inter alia the first results of the performance measurement framework to be operational by 31 December 2022. No key immediate implementing step.
Training to be provided for micro, small and medium-sized enterprises on public procurement practices	13	To be implemented progressively until June 2026. No key immediate implementing step.
Setting up a support scheme for compensating the costs associated with participating in public procurement of micro, small and medium-sized enterprises	14	To be implemented progressively until July 2026. No key immediate implementing step.