

# HUNGARY

## Little or no enforcement

**0.5% of global exports**

### Investigations and cases

In the period 2016-2019, Hungary opened no investigations, commenced no cases and concluded no cases with sanctions.

In June 2019, the OECD WGB adopted its Phase 4 Report on Hungary, which commented on the “absence of investigations and prosecutions of foreign bribery since Phase 3 [in 2012]” and added “To avoid Hungary becoming a safe harbour for multinationals with subsidiaries in Hungary that commit bribery abroad, the authorities must overcome their reluctance to enforce relevant criminal legal provisions and assign responsibility to detect and investigate such bribery”.<sup>1</sup>

There have been media reports about police investigations in Slovenia and North Macedonia concerning possible illegal party financing and laundering of funds originating in Hungary.<sup>2</sup>

### Recent developments

The new Code of Criminal Procedure entered into force in July 2018 and is intended to enhance Hungary’s capacity to detect and investigate crimes, including foreign bribery. An important new feature is the introduction of a settlement process between the offender and the prosecution service, which requires a guilty plea on the offender’s behalf and results in more lenient sanctions. Prosecutors may also dispose of charges in the framework of plea bargains, on condition that the offender provides vital information which results in the detection of further offences. Following the entry into force of the new code, these changes contributed to the

successful prosecution of two high-level corruption cases and to the indictment of Members of Parliament supposedly associated with these incidents – an unprecedented development in Hungary. This provides the basis for the view that new procedural solutions may be useful in the prosecution of foreign bribery cases.

Hungary has restructured the prosecution service in order to enhance its detection and investigative roles. This has resulted in more centralisation and broader, nationwide jurisdiction of the Central Investigation Office of the Public Prosecution Service in charge of the investigation and prosecution of offences reassigned by the Prosecutor General from law enforcement agencies to the prosecution service. This includes serious crimes, such as foreign bribery and related money laundering.

In 2019, the Moscow-based International Investment Bank (IIB), 40 per cent owned by the Russian government, moved its headquarters to Hungary. The IIB has been granted similar legal standing to diplomatic missions and offices of international organisations, with immunities approved by Parliament.<sup>3</sup> It will be exempt from financial authority procedures and investigations and from financial reporting standards. This could affect detection and investigation of money laundering.

### Transparency of enforcement data

The Ministry of Interior records the number of offences reported and registered, investigations commenced, investigations terminated and indictments for the offences of trading in influence and bribery of public officials. While this information is not publicly available, it is available on request. There is a comprehensive public database covering the period 2013 to the end of June 2018. Hungary does not compile and publish statistics on requests for mutual legal assistance (MLA) made and received. Court decisions are published in anonymised form.

### Beneficial ownership transparency

<sup>1</sup> <https://www.oecd.org/corruption/anti-bribery/OECD-Hungary-Phase-4-Report-ENG.pdf>

<sup>2</sup> <https://www.ostro.si/en/stories/oiling-orbans-propaganda-machine>

<sup>3</sup> <https://www.nytimes.com/2019/03/18/world/europe/hungary-russian-bank-spy-orban-putin.html>;  
[https://index.hu/english/2019/02/20/international\\_investment\\_bank\\_russia\\_hungary\\_putin\\_orban\\_immunity/](https://index.hu/english/2019/02/20/international_investment_bank_russia_hungary_putin_orban_immunity/)

There is no central register of beneficial ownership information. The new Anti-Money Laundering Act (Act LIII of 2017; AML Act) containing provisions for the central register of ultimate beneficial ownership information entered into force on 26 June 2017. However, legal regulations to set up the register are still pending.

## Inadequacies in legal framework

The definition of domestic public officials does not cover officials of publicly owned enterprises, a definition also applied to foreign public officials. Therefore officials of foreign public enterprises are not covered. However, the Criminal Code foresees equally stringent sanctions for bribery of officials of foreign public enterprises, defining it as bribery and acceptance of bribery related to a foreign enterprise. The same goes for trading in influence, where the definition of influence trading covers cases related to foreign public enterprises.

Hungary's standalone legislation to protect persons who report on or expose wrongdoing has not yet encouraged a real and functional whistleblowing culture. Willingness to report wrongdoing in Hungary is low, partially because the law does little more than simply declare that any punishment of whistleblowers is unlawful, but fails to provide effective protection to reporting persons.<sup>4</sup>

## Inadequacies in enforcement system

The prosecution service in general is well equipped – especially the Central Investigation Office of the Public Prosecution Service – and the law enables it to take all necessary measures to detect crime and investigate offences, including extensive use of covert tools and investigation. However, clearance rates still lag behind expectations in cases of high-level corruption and foreign bribery.<sup>5</sup> This is partly explained by the lack of internal checks and balances within the prosecution service, resulting in no professional autonomy of prosecutors and enabling wrongful interventions by the leadership of the prosecution service to prevent or divert investigation and prosecution of sensitive cases. In addition, the two-year limit for investigation of foreign bribery offences does not ensure adequate

time for investigative measures, especially in highly complex multi-jurisdictional cases.

The Hungarian legal framework provides for sanctioning legal entities, such as corporations, according to the 2001 Act on the Criminal Responsibility of Legal Entities. Possible sanctions are 1. pecuniary 2. suspension of activities 3. termination. However, legal entities are seldom prosecuted, even if the management has been acting in their interests. The OECD WGB Phase 4 Report on Hungary identified the non-use of liability of legal persons as the single most serious challenge facing the Hungarian authorities regarding implementation of the OECD Convention, and considered that there appears to be little will to implement this in practice.

There is little awareness of the offence of foreign bribery in the private sector, and weak internal controls or ethics and compliance programmes within Hungarian companies.

The first cycle review of Hungary's implementation of the UN Convention against Corruption identified several areas in which Hungary could improve its MLA.

## Recommendations

- Publish statistics on foreign bribery enforcement and MLA
- Introduce a central register of beneficial ownership information that is publicly accessible
- Improve the legal framework for whistleblower protection
- Improve the professional autonomy of prosecutors
- Extend the two-year investigation time-limit
- Raise awareness of the foreign bribery offence in the private sector
- Strengthen capacity to provide prompt and effective legal assistance to other Parties to the Convention investigating and prosecuting foreign bribery cases.

<sup>4</sup> <https://www.changeofdirection.eu/campaign-central/shortcomings-in-hungarys-whistleblower-law>

<sup>5</sup> <https://transparency.hu/wp-content/uploads/2020/02/Korrupci%C3%B3-gazdas%C3%A1gi-teljes%C3%ADtm%C3%A9ny-%C3%A9s-jog%C3%A1llamis%C3%A1g-Magyarorsz%C3%A1gon-CPI-2019-EN-1.pdf>