

# Open Government Partnership Independent Reporting Mechanism Progress Report: Hungary

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**Hungary focused on initiatives that complemented its existing anti-corruption program. They had a fairly high rate of completion. Initially, stakeholders welcomed the collaborative process, but mid-way through the process, larger political issues relevant to OGP led to a breakdown. If the OGP process is going to be strong, Hungary will need to continue to enhance cooperation and use OGP to address big picture issues.**

The Open Government Partnership (OGP) is a voluntary international initiative that aims to secure commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. The Independent Reporting Mechanism (IRM) carries out a biannual review of the activities of each OGP participating country.

Hungary officially began participating in OGP in July 2012, when the Minister of Public Administration and Justice, Dr. Tibor Navracsics, declared the Government's intent to join.

Before June 2014, the Ministry of Public Administration and Justice (MPAJ) led OGP implementation in Hungary. After the 2014 elections, the National Protection Service (NPS), an agency under the Ministry of Interior, was charged with coordination and implementation of OGP tasks. The NPS has continued the coordination within the MPAJ's intra-governmental and civil society OGP working groups. National and EU funds for EUR 50.000 are earmarked for OGP action plan implementation.

This report covers only the period from Hungary's declaration of intent to join OGP to the end of the first year of the action plan (June 2014). Activities completed after this are not assessed.

### OGP PROCESS

Countries participating in the OGP follow a process for consultation during development of their OGP action plan and during implementation.

Overall, Hungary developed the OGP plan in a somewhat participatory way. Advanced notice of 15 days was provided to key stakeholders for consultation meetings, although there were no public awareness-raising activities. The first part of the planning phase was marked by high level of cooperation between government and CSOs. In Spring 2013, FOI and public procurement scandals led some CSOs to exit the working group in protest.

CSOs participated in in-person consultations and regularly met with government officials in working groups. The results of public consultation are summarized in a separate document. The final action plan includes four commitments taken from CSO recommendations.

During the period of implementation a number of political conflicts, directly related to the theme of open government have derailed cooperation between civil society organizations and government. These include allegations of corruption and closing of civic space for civil society organizations.

### At a glance

Member since:	2012
Number of commitments:	5
Number of milestones:	16

#### Level of Completion:

Completed:	10 of 16
Substantial:	0 of 16
Limited:	6 of 16
Not started:	0 of 16
Not applicable:	0 of 16

#### Timing:

On schedule:	16 of 16
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#### Milestone emphasis:

Access to information:	10 of 16
Civic participation:	1 of 16
Accountability:	10 of 16
Tech. & innovation for transparency & accountability:	0 of 16

#### Number of Commitments that were:

Clearly relevant to an OGP value:	5 of 5
Of moderate or transformative potential impact:	0 of 5
Substantially or completely implemented:	3 of 5
All three (★):	0 of 5

The government published a slightly delayed self-assessment report in October 2014 and provided a two-week consultation period. The report is accurate but very minimalistic. It does not explain challenges to implementing commitments or provide lessons learned for the next OGP action plan.

## COMMITMENT IMPLEMENTATION

As part of OGP, countries are required to make commitments in a two-year action plan. Table 1 summarizes each commitment, including its level of completion, its ambition, and whether it falls within Hungary's planned schedule, and the key next steps for future OGP action plans. Hungary's action plan covered disclosure of information and furthered the Government's anticorruption campaign, although some commitments' relevance to OGP values requires clarification and further action in the next action plan. Hungary completed two of its commitments.

**Table 1: Assessment of Progress by Commitment**

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING	NEXT STEPS
	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE		
<p>✱ COMMITMENT IS CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS MODERATE OR TRANSFORMATIVE POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.</p>										INCLUDE THIS COMMITMENT, IN PART OR IN TOTAL, IN THE NEXT PLAN?
<p><b>1. Fiscal data</b> - Present the data of the draft central budget and its amendments as well as the implemented budget through figures and charts. Present government expenditure data according to Level 2 groups of the UN Classification of the Functions Of Government [COFOG].</p>									Unclear	Yes
<p><b>2. Public procurement data</b> - Ensure public procurement announcements are disclosed such that every contractor is allocated a permanent unique identification code and every public procurement procedure is allocated a permanent, unique identification code.</p>									On schedule	Yes
2.1. Unique contractor identification code									On schedule	Yes
2.2. Unique public procurement procedure identification code									On schedule	Yes
<p><b>3. Disclosure compliance</b> - Improve publicity of contracts concluded for the utilisation of public property and ensure compliance with disclosure obligations through compliance checks.</p>									On schedule	Yes
3.1. Compliance checks extended to disclosure obligations									On schedule	Yes
3.2. Review Public Procurement Act to comply with freedom of electronic information									On schedule	No
3.3. Open meetings on local government property procurement									On schedule	Yes
3.4. Disclosure of public motions by local government bodies									On schedule	Yes
<p><b>4. Integrity control system in the public sector</b> – Enhance integrity through a central control system, institutionalize whistle blower protections, implement a Lobbying Law, and create professional codes of conduct for government officials and law &amp; order personnel.</p>									On schedule	Yes

4.1. Extended integrity survey									On schedule	Yes
4.2. Launch of integrity control system									On schedule	Yes
4.3. Whistleblower protections									On schedule	Yes
4.4. Lobbying regulation									On schedule	Yes
4.5. Corruption risk assessment module									On schedule	Yes
4.6. Codes of ethics for government officials and law and order personnel									On schedule	Yes
<b>5. Dissemination of information on anticorruption and integrity</b> - Provide anticorruption, integrity, and disclosure of public interest data training for public officials and launch an anticorruption awareness raising campaign with corresponding school curriculum.									On schedule	Yes
5.1. Trainings for public officials									On schedule	Yes
5.2. Freedom of information training									On schedule	Yes
5.3. Awareness-raising campaigns									On schedule	Yes
5.4 Revision of course books									On schedule	No

**Table 2: Summary of Progress by Commitment**

NAME OF COMMITMENT	SUMMARY OF RESULTS
<p>1. Improving the Publicity of Fiscal Data</p> <ul style="list-style-type: none"> <li>• OGP value relevance: Clear</li> <li>• Potential impact: Minor</li> <li>• Completion: Complete</li> </ul>	<p>The Hungarian Government succeeded in improving access to information by publishing an electronic dataset of the central government's budget, with proposed and final expenditure figures, for the actual budget year. Additional action is required to increase public awareness and understanding of the disclosed budgetary information and to expand this initiative to the municipal level.</p> <p><b>1.1. Present central budget draft and implemented budget through figures and charts:</b> The online database for proposed and actual budget expenditures is a small but critical step toward greater access to information. The database contains a few simple charts and graphs that make the interpretation of the big picture about budget data easier. Civil society experts claimed, however, that the technical realization of the data visualization leaves much room for improvement (if compared to international good practices).</p> <p><b>1.2. Present government expenditure data according to COFOG requirements:</b> Official budget documents for the current and future budgetary years were only available in the form of budget bills and acts. In 2014, the Hungarian State Treasury published central budget data using a modified COFOG breakdown on its own website. The dataset is downloadable in a user-friendly format. Independent experts, however, assert that the current format—in the absence of a detailed methodological description—does not allow for easy public policy analysis. Civil society criticized the government's implementation plan for not disclosing municipal budgets and not following international standards for disclosure at the central government level.</p> <p>In the next action plan, the government can improve on this commitment by reconfiguring database categorizations to improve transparency, creating a user-friendly, accessible dataset for municipal-level budgets to enhance access to information, and launching a pilot project on fiscal management and transparency in school curricula to educate their citizenry.</p> <p>Since July of 2014, the data and the site have sometimes inactive.</p>
<p>2. Improve Searchability of Public Procurement Data</p> <ul style="list-style-type: none"> <li>• OGP value relevance: Clear</li> <li>• Potential impact: Minor</li> <li>• Completion: Complete</li> </ul>	<p>This commitment sought to enhance transparency and access to information by bringing the public procurement database into compliance with existing legislation. The online database launched in 2014, following amendments in July 2013 and November 2013 to public procurement legislation, which introduced contractor and procedure procurement ID codes. The government completed both milestones. Civil society organizations (CSOs) interviewed stated that the milestones were a necessary, but not sufficient, step for improving the overall searchability of public procurement data indicated in the language of the commitment.</p> <p>To further open the public procurement process, the government can make the database accessible in a downloadable format, assign unique identifiers to individual bidders for consistent usage across all documents and decisions, and upload all documents for a specific procurement procedure based on a checklist.</p>
<p>3. Checking Compliance with Disclosure Obligations</p> <ul style="list-style-type: none"> <li>• OGP value relevance: Clear</li> <li>• Potential impact: Minor</li> <li>• Completion: Limited</li> </ul>	<p>This commitment intended to challenge anti-disclosure attitudes in government by ensuring compliance with public disclosure regulations at the local and national level. While the Public Procurement Act review was completed, limited progress was made on the other three milestones.</p> <p><b>3.1. Compliance checks extended to disclosure obligations:</b> Few public entities comply with national regulations for disclosure obligations. Although there were no new regulations for internal procedures, government sources stated in interviews with the IRM researcher that the State Audit Office (SAO) incorporated compliance checks into its operations.</p> <p><b>3.2. Review the Public Procurement Act from the perspective of the freedom of electronic information:</b> The Review took place May-June 2013, and the amended Public Procurement Act came into force July 2013. Amendments included specific guidelines for greater transparency in procurement procedures and focused on expanding the role and accessibility of the online database.</p> <p><b>3.3. Open meetings for utilization of local government property:</b> The government contact interviewed by the IRM researcher noted limited progress, citing pressure from the Association of Cities with County Rights and the Ministry of Interior to modify the planned milestone.</p> <p><b>3.4. Disclosure of public motions by local government bodies:</b> The government contact interviewed by the IRM researcher noted limited progress and indicated the Association of Cities with County Rights and the Ministry of Interior found implementing this milestone to be a violation of the municipalities' economic interest.</p>

	<p>The next action plan can address reluctance to comply with disclosure regulations by granting enforcement authority to independent control bodies and by extending their mandate to include central and local level public entities. To increase transparency and accountability in public procurement procedures, emphasis can be placed on fostering competition and limiting the number of exempted procedures.</p>
<p>4. Integrity Control System in the Public Sector</p> <ul style="list-style-type: none"> <li>• OGP value relevance: Clear</li> <li>• Potential impact: Minor</li> <li>• Completion: Substantial</li> </ul>	<p>This commitment aims at improving the integrity in the public administration by implementing elements of a pre-existing anticorruption program. The majority of the actions were already underway before the OGP action plan, and all but one of the milestones were completed in 2013. While most of the milestones focus on information disclosure and other open government actions, many lack a direct public interface component that would enhance accountability and visibility for the program.</p> <p><b>4.1. Extend the Integrity Survey:</b> The State Audit Office (SAO) launched the third wave of the Integrity Survey in 2013. Participation and the quality of the survey continue to improve, although the survey lacks state owned enterprises' and municipalities' participation.</p> <p><b>4.2. Launch of integrity control system:</b> The Integrity Management System was introduced in 2013. A corresponding postgraduate course in integrity management was launched in 2013 to support the introduction of the Integrity Management System to the Hungarian public administration and to develop a work-ethics-based organizational culture.</p> <p><b>4.3. Whistleblower protection:</b> A new Whistleblower Act, which took effect January 2014, strengthens protection by introducing anonymous, electronic reporting mechanisms and by creating procedural rules for handling complaints and public interest disclosures. CSOs interviewed by the IRM researcher argue that the enforcement of the Whistleblower Act is weak and lacks an independent public authority to ensure effective protections.</p> <p><b>4.4. Lobbying regulation:</b> The Government adopted a decree on lobbying in 2013 (following the 2010 repeal of a 2006 lobbying law). CSOs and businesses interviewed by the IRM researcher are critical of the regulation's effectiveness due to the absence of detailed provisions on regulating lobbying activities.</p> <p><b>4.5. Corruption risk assessment module:</b> Preparation of a "corruption risks assessment sheet" began ahead of the launch of the OGP action plan. The government source interviewed by the IRM researcher noted that the module is still being finalized.</p> <p><b>4.6. Code of ethics for government officials and law and order personnel:</b> A Code of Ethics for Government Officials and Law Enforcement Personnel was finalized in July 2013.</p> <p>The milestones in this commitment are capable of bringing about significant changes in the quality of the government's regulatory framework and perceptions of government accountability. Additional action is needed to create effective enforcement mechanisms and to provide independent public authorities with regulatory powers to ensure compliance.</p>
<p>5. Dissemination of Information on Anticorruption and Integrity</p> <ul style="list-style-type: none"> <li>• OGP value relevance: Clear</li> <li>• Potential impact: Minor</li> <li>• Completion: Limited</li> </ul>	<p>This commitment aimed to raise public awareness and disseminate information on public integrity and government anticorruption measures. All stakeholders interviewed welcomed these milestones for their efforts to make administrative culture more accountable, although the absence of government progress reports makes it difficult to assess the impact of these actions.</p> <p><b>5.1. Trainings for public officials:</b> As of June 2014, 3,500 public officials in the central public administration have participated in integrity trainings. CSOs were invited to a pilot training session, but the IRM researcher was not able to confirm if CSO feedback was incorporated into the training curriculum.</p> <p><b>5.2. Freedom of information training:</b> The government contact interviewed by the IRM researcher stated that the draft curriculum for Freedom of Information training is still under review. National CSOs are unaware of the aims and content of the training.</p> <p><b>5.3. Awareness-raising campaigns:</b> According to government sources, an awareness campaign was launched in 2012 to complement the Government's corruption prevention program. However, work plans for this action remain under review.</p> <p><b>5.4. Revision of course books:</b> The National Core Curriculums, in effect since September 2013 (pursuant to a 2012 government decree), prescribes specific curricula frameworks for corruption and anticorruption measures. National CSOs interviewed are unaware of the aims and content of the training.</p> <p>In the next action plan, the government can expand the scope of their integrity trainings to include local government officials, public institution officials, and employees of state-owned enterprises.</p>

## RECOMMENDATIONS

Hungary is characterized by low trust in the government and public perceptions of widespread corruption. These perceptions can be changed only in the long term through effective collaboration between government and stakeholders and through strong political ownership in the planning and implementation phases of the action plan. Based on the challenges and findings identified in this report, this section presents the principal recommendations.

### Cross-Cutting Recommendations

In the IRM researcher's point of view, the general recommendations for the second action plan period would be to (1) involve high-level political leadership to ensure the legitimacy of monitoring and enforcement measures and (2) promote cooperation between government and civil society through regular communication and effective feedback mechanisms.

Based on the first action plan period, most of the national stakeholders highlighted the need for additional or improved efforts in public finance, political party and campaign finances, access to government information, and public procurement.

The Hungarian Government also can consider a broader, but more targeted, set of recommendations. This requires a strategic re-thinking of how government and civil society can collaborate and develop the OGP process and recognition that "open government" is not identical to "anti-corruption," although the two terms are closely related. Such steps will ensure that

TOP FIVE 'SMART' RECOMMENDATIONS
1. The State Audit Office (SAO) shall monitor public disclosure practices of local government authorities and state-owned enterprises on a regular basis. The results of these checks shall be published in the form of a "transparency ranking," separating clearly the best and worst performing authorities and companies.  In addition, the SAO's monitoring and evaluation capacities should be developed in partnership with international organizations (e.g., OECD) and with national CSOs active and knowledgeable in the field.
2. Review party and campaign financing regulations to improve the effective transparency of the flow of money by obligating parties to publish a report on campaign revenues and expenditures and by inviting CSOs to collaborate in tracking and monitoring.
3. Revise the freedom of information regulations, with special attention to the provisions on abusive requests for information. Such a revision should clearly make the exception for "abusive requests" as narrow as possible and place the burden of justifying any denials of requests for information on the particular agency.
4. Revise regulations on classified information to restrict the possibility that public authorities will use this option to hamper access to public data.
5. Launch e-procurement (especially the electronic submission of tenders) and upgrade the electronic public procurement database in line with the feedback and recommendations of data-using CSOs.

future commitments make clear their relevance to the principles of OGP.

**Eligibility Requirements 2012:** To participate in OGP, governments must demonstrate commitment to open government by meeting minimum criteria on key dimensions of open government. Third-party indicators are used to determine country progress on each of the dimensions. For more information, visit <http://www.opengovpartnership.org/eligibility>.

Budget Transparency:	4 out of 4	Access to Information:	Law Enacted
Asset Disclosure:	4 out of 4	Civic Participation:	8.24 of 10

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## I. National participation in OGP

### I.1: History of OGP participation

The Open Government Partnership (OGP) is a voluntary, multistakeholder international initiative that aims to secure concrete commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. In pursuit of these goals, OGP provides an international forum for dialogue and sharing among governments, civil society organizations (CSOs), and the private sector, all of which contribute to a common pursuit of open government. OGP stakeholders include participating governments as well as civil society and private sector entities that support the principles and mission of OGP.

Hungary began its participation in July 2012, when the Minister of Public Administration and Justice, Dr Tibor Navracsics, declared his country's intention to participate in the initiative.<sup>1</sup>

In order to participate in OGP, governments must exhibit a demonstrated commitment to open government by meeting a set of minimum performance criteria on key dimensions of open government that are particularly consequential for increasing government responsiveness, strengthening citizen engagement, and fighting corruption. Objective, third-party indicators are used to determine the extent of country progress on each of the dimensions, with points awarded as described below.

Hungary entered into the partnership with the maximum possible score for eligibility. In 2012, the country was not part of the Open Budget Survey, so its total score is out of a maximum possible 12 points, rather than 16. At the time of joining, the country had an access to information law,<sup>2</sup> giving it four points, and a score of 8.24 out of a possible 10, on the Civil Liberties category of the Economist Intelligence Unit's Democracy Index, giving it another four possible points.<sup>3</sup> The country was among the top 10 OECD countries where private interest disclosures by decision makers in the central government were fully available (in 2009), giving it another four points.<sup>4</sup>

All OGP participating governments are required to develop an OGP country action plan that elaborates concrete commitments over an initial two-year period. Governments should begin their OGP country action plans by sharing existing efforts related to their chosen grand challenges (see Section IV), including specific open government strategies and ongoing programs. Action plans should then set out the government's OGP commitments, which move government practice beyond its current baseline with respect to the relevant grand challenge. These commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area.

Hungary developed its national action plan from July 2012 to February 2013. The effective period of implementation for the action plan started officially on 25 February 2013 and ended on 31 December 2013. At the time of writing this report (September 2014), the government was still implementing the remaining open commitments of the first action plan. The government published its self-assessment report with a slight delay in October.

In order to meet OGP requirements, the Independent Reporting Mechanism (IRM) of OGP partnered with Petra Edina Reszkető, from the Budapest Institute for Policy Analysis, who carried out this evaluation of the development and implementation of Hungary's first action plan. It is the aim of the IRM to inform ongoing dialogue around the development and implementation of future commitments, as well as remaining,

unfinished commitments, in each OGP-participating country. Methods and sources are discussed in a methodological annex in this report.

## **I.2: Basic institutional context**

Administration of the OGP action plan has been largely stable, punctuated by elections in 2014. Hungarian CSOs had been advocating the core values of open governance long before Hungary's accession to the OGP.<sup>5</sup> In 2012 the Ministry of Public Administration and Justice (Közigazgatási és Igazságügyi Minisztérium; MPAJ) took up the initiative of CSOs to design and launch a government action plan targeted at enhancing transparency and open government practices in Hungary. In fact, there was a lot of CSO pressure to join the OGP.

The MPAJ was the sole government entity in charge of managing the consultation process as well as the implementation of the relevant government measures until 30 June 2014.

In April 2014, after the general elections in the country, the government was reorganized and the departments of the MPAJ were transferred to other ministries and government agencies. The official national OGP contact point informed the IRM researcher that the National Protection Service (Nemzeti Védelmi Szolgálat; NPS) will be in charge of the coordination and implementation tasks in the future. The NPS is an armed law enforcement body tasked with crime prevention and crime detection. It is an independent governmental agency, subordinate to the Ministry of Interior.

Responsibility for OGP largely has been centralized in one agency, but there has been some coordination and sharing of responsibility. Several line ministries (especially, the Ministry of National Economy and the Ministry for National Development) were involved in the action plan development and implementation process. Some background agencies and public entities were also involved (e.g., Hungarian State Treasury, Public Procurement Authority, National University for Public Administration), and the National Assembly (e.g., State Audit Office or SAO) supervised some central level agencies. Neither the Prime Minister nor his office took an active role either in the planning or in the implementation phase. Therefore, OGP and its relevance for Hungary was not a central element of the government's public appearances.

During both the planning and the implementation phase, the MPAJ cooperated with line ministries through an intra-governmental working group called the Coordination Working Group (Coordination WG), and it invited CSOs and businesses to collaborate in drafting the action plan in the framework of an extra expert working group called the Open Government Expert Working Group (OGP WG).

While drafting the national action plan, other CSOs were invited to participate in the process and the MPAJ decided to establish a high level Civil Consultation Forum (CCF), thereby providing membership and partnership to an additional number of CSOs interested in transparency issues. For the list of members of the OGP WG and the CCF, see the Table in the Annex.

The Department for Public Administration Development and Strategic Design at the MPAJ supported one of the secretaries of state at the MPAJ in leading and managing the working groups and running the coordination. This department was also in charge of allocating funds to the implemented measures. Both national and EU funds have been earmarked to support the implementation. The overall sum amounted to EUR 50.000.

## **I.3: Methodological note**

The IRM partners with experienced, independent national researchers to author and disseminate reports for each OGP participating government. In Hungary, the IRM

partnered with the Budapest Institute for Policy Analysis (BIPA). BIPA reviewed the government's self-assessment report, gathered the views and suggestions of civil society, and interviewed appropriate government officials and other stakeholders in order to understand the Hungarian OGP process in all its facets. As a means of quality assurance, the OGP staff and a panel of experts reviewed the report.

To gather the voices of multiple stakeholders in a systematic way, BIPA organized stakeholder interviews, ran a stakeholder survey, consulted with independent experts in the field, reviewed the key documents prepared by the government during the preparatory and implementation phase, and examined related articles published largely by CSOs and, in some cases, by journalists. Typically, the IRM researchers rely heavily on the government's self-assessment report to take stock of progress. Although the government's self-assessment report was released with a slight delay, during the revision phase of this report, the IRM researcher was able to draw on the government self-assessment report.<sup>6</sup>

The questionnaire used in the stakeholder survey and in the interviews is available in the Annex.

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<sup>1</sup> "Hungary," Open Government Partnership, <http://.2it.ly/1EISBYU>

<sup>2</sup> Hungarian Parliament, "Act No. CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information [2011. évi CXII. törvény - az információs önrendelkezési jogról és az információszabadságról]," Nemzeti Adatvédelmi és Információszabadság Hatóság (NAIH), 1 January 2012, <http://.2it.ly/1ww1AGH>

<sup>3</sup> The Economist, *Democracy Index 2010: Democracy in Retreat*, by the Economist Intelligence Unit (Report, London, 2010), <http://.2it.ly/eLC1rE>

<sup>4</sup> Organization for Economic Cooperation and Development (OECD), "Types of Information Decision Makers Are Required to Formally Disclose, and Level Of Transparency," in *Government at a Glance 2009*, (France: OECD Publishing, 2009), <http://.2it.ly/13vGtqS>

<sup>5</sup> Environmental Management and Law Association, Hungarian Civil Liberties Union, Hungarian Environmental Partnership Foundation, K-Monitor, and Transparency International Hungary, letter to the State Secretary of the Ministry of Justice Bence Rétvári on the Open Government Partnership, 28 September 2011, <http://.2it.ly/15AuuPX>

<sup>6</sup> Open Government Partnership, *Open Government Partnership National Action Plan 2013-2014 Self-Evaluation Report* by the Hungarian Government (Report, October 2014), <http://.2it.ly/1EIWuNx>

## II. Action plan development

Hungary joined the OGP and launched its national action plan in 2013, following an initiative from civil society groups in 2012. The government started the planning process by inviting several nongovernmental organizations (both civil and business) to share their views and provide recommendations. This approach was exemplary in the Hungarian context because political decision making processes from 2010 onwards have rarely facilitated the active participation of third-party, nongovernmental stakeholders. In addition, a specific working group composed of both government and nongovernmental experts served as the main forum for consultation and design.

Countries participating in OGP follow a set process for consultation during the development of their OGP action plan. According to the OGP Articles of Governance, countries must:

- Make the details of their public consultation process and timeline available (online at minimum) prior to the consultation;
- Consult widely with the national community, including civil society and the private sector; seek out a diverse range of views and; make a summary of the public consultation and all individual written comment submissions available online
- Undertake OGP awareness raising activities to enhance public participation in the consultation
- Consult the population with sufficient forewarning and through a variety of mechanisms—including online and through in-person meetings—to ensure the accessibility of opportunities for citizens to engage.

A fifth requirement, during consultation, is set out in the OGP Articles of Governance. This requirement is dealt with in the section “III: Consultation during implementation”:

- Countries are to identify a forum to enable regular multi-stakeholder consultation on OGP implementation—this can be an existing entity or a new one.

Evidence of consultation both before and during implementation is included here and in Table 1 for ease of reference.

**Table 1: Action Plan Consultation Process**

Phase of Action Plan	OGP Process Requirement (Articles of Governance Section)	Did the government meet this requirement?
During Development	Were timeline and process available prior to consultation?	Yes, it was available to the members of the OGP Working Group (OGP WG)
	Was the timeline available online?	No
	Was the timeline available through other channels?	No
	Was there advance notice of the consultation?	Yes
	How many days of advance notice were provided?	15
	Was this notice adequate?	Yes

	Did the government carry out awareness-raising activities?	No
	Provide any links to awareness-raising activities.	No
	Were consultations held online?	Yes
	Provide any links to online consultations.	<a href="http://corruptionprevention.gov.hu/contact-us">http://corruptionprevention.gov.hu/contact-us</a>
	Were in-person consultations held?	Yes
	Was a summary of comments provided?	Yes
	Provide any links to summary of comments.	<a href="http://korrupciomegelozes.kormany.hu/egyeztetesek-civil-partnerseg">http://korrupciomegelozes.kormany.hu/egyeztetesek-civil-partnerseg</a>
	Were consultations open or invitation-only?	Invitation-only, but open by recommendations of the OGP WG members
	Place the consultations on the IAP2 spectrum. <sup>1</sup>	Involve
During Implementation	Was there a regular forum for consultation during implementation?	Yes, – OPG Working Group (OGP WG).
	Were consultations open or invitation-only?	Invitation-only, but open by recommendation of the OGP WG members.
	Place the consultations on the IAP2 spectrum.	Involve

#### Advance notice and awareness-raising

Following 2012, when national CSOs advocated for Hungary to join OGP, the Hungarian government did not advance any campaign or other awareness-raising activity (i.e., in the media) prior to the actual action planning process.

Once the consultation process began, in order to coordinate and manage the planning and implementation phase, a separate working group (the OGP WG) was established in September 2012. The working sessions were announced 15 days in advance via electronic mail, although there was no publicly available timeline or schedule. The preliminary work plan was sent to OGP WG members at the first meeting but not published on the government central website.

During the planning phase the member organizations mostly used direct communication channels to the government (electronic mail list). In order to inform the broader public, many of the CSOs published announcements and posts on their own websites and blogs.<sup>2</sup>

One specific sub-site embedded in the government's central website was launched later, in 2013. It serves still as the main interface to share information on the public consultation process and the outcomes of the implementation phase.<sup>3</sup>

### Depth and breadth of consultation

To develop the national action plan, the Hungarian Government used the infrastructure and the network of public consultation established for another government program, the Program on Preventing Corruption in Public Administration (PPC). The members of the government-to-civil society working group of the PPC were invited automatically to the new OGP WG. The OGP WG had its first meeting in September 2012. It was the main forum of government-to-civil society consultation until the high-level Civil Consultation Forum (CCF) formed in December 2012.<sup>4</sup>

Members of the OGP WG were invited to comment and amend the draft versions of the action plan in two rounds.<sup>5</sup> Later they were invited to monitor the implementation on a monthly basis.<sup>6</sup>

The draft plan was published for public consultation toward the end of 2012, and the public consultation process continued through January 2013. The results of the public consultations are summarized in a separate government document. The separate government document also explains which recommendations were and were not adopted and built into the final version due to considerations of the comments and arguments of the relevant government agencies potentially in charge of implementation.<sup>7</sup>

The final action plan includes four milestones (out of the 16 milestones) that were taken from CSO recommendations.<sup>8</sup> In addition, OGP commitments address several areas, which overlap with CSOs concerns. However, the specific commitments involved finally into the action plan diverge from the original recommendations.<sup>9</sup> Finally, some recommendations were omitted altogether from the government commitments.<sup>10</sup> (For more details on the reasons shared by the government, see the commitment-specific chapters below.)

The government-level Coordination WG (composed of government agency representatives) assessed the relevance and the viability of the recommendations following the consultation rounds.<sup>11</sup>

While the representatives of CSOs and businesses participating in the previously existing working group of the PPC were invited automatically to the new OGP forum, the government was not restrictive. It accepted new members upon recommendation or self-appointment.<sup>12</sup> Independent experts informed the IRM researcher that during the early meetings, the government was not responsive to membership applications from CSOs with an agenda outside of the anticorruption issues. For the final list of members of the OGP WG and that of the CFF, see the Annex.

The consultations can be considered to *involve* stakeholders, because the government wanted explicitly to work together with social partners and nongovernment stakeholders, provided feedback on which inputs were taken into account and why. During both the design and the implementation phase, public concerns and aspirations were considered, although not all of them were accepted. Nonetheless, the IRM researcher thinks that the consultation process could have been improved by (1) involving the national stakeholders in the final decision on the set of recommendations and (2) running an open discussion on the national priorities and possible alternatives of declined and modified recommendations. Consequently, the thematic scope of the national action plan was chosen deliberately to be limited to anticorruption efforts by the Hungarian government from the very early stages. A number of national civil society stakeholders—some from outside of the purely anti-corruption field—criticized this.

### Civil Society Views of Consultation during the Development of the Action Plan

Most of the CSOs members of the OGP WG were very active in the planning and implementation phase. Most have strong, proactive profiles in transparency and anticorruption issues.

The results of the stakeholder survey suggest that they considered the initial phase of the consultation process to be very open and exceptional, especially in the Hungarian context where consultations with professional and social partners have been limited since 2010 (for more information on the stakeholder survey, see I.3: Methodological note). Members of the OGP WG had the opportunity to deliver their own recommendations and to discuss their own ideas with government representatives. In some cases, they even had the opportunity to argue with those representatives. This openness is also reflected by the relatively large number of recommendations forwarded to the planning agency and the very active participation of most OGP WG members during the planning sessions (primarily 2012 through early 2013). (For more details on the recommendations accepted or not by the government, see the section above and the commitment-specific sections below.)

The government representatives actively taking part in the planning and implementation phase were perceived as knowledgeable in the field and devoted to the OGP values. Notably, there were also evident signs of political commitment and willingness (e.g., the leader of the OGP working group was the state secretary of the MPAJ). Moreover, this approach of the government – involving different nongovernmental, civil organizations in the planning process – generated high expectations on the part of the stakeholders.

At the same time, based on the stakeholder survey carried out by BIPA, some CSO representatives also pointed to the lack of effective discussion and exchange of arguments in the final phase of the planning process. In their view, the government did not provide clear-cut information on the reasons why the original recommendations were amended (or “watered down,” in some organizations’ view) or set aside. They were critical with regard to real feedback mechanisms between the various rounds of consultation, and they wondered why some of their suggestions could hardly be traced in the final versions of the action plan. It should be noted that the Government’s written summary on the outcomes of the planning phase and decisions on the final set of commitments (their scope and content) was published after the action plan was officially adopted, during the implementation phase.

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<sup>1</sup> “IAP2 Spectrum of Political Participation,” International Association for Public Participation, <http://.2it.ly/1kMmIYC>

<sup>2</sup> “Magyarország: Igazolatlan Hianyza [No Excuse for Hungary’s Absence from the OGP],” Blog, K-Monitor, 25 February 2012, <http://.2it.ly/1L8txz9>; “OGP: Magyarország Elektronikus Felszabadítása? [OGP: The Electronic Liberation of Hungary?],” Blog, K-Monitor, 27 April 2012, <http://.2it.ly/1uMEBND>; “What Does Open Government and Partnership Mean to the Hungarian Government?,” Transparency International Hungary, 30 April 2013, <http://.2it.ly/1D6ByPy>; Léderer Sándor, “A K-Monitor És a TASZ Javaslati Magyarorszag OGP-Csatlakozasához Szuksages Vallalásokra, [Recommendations of the K-Monitor and HCLU on the Necessary Commitments of Hungary in the OGP],” K-Monitor, 13 June 2012, <http://.2it.ly/1B9Or91>; Members of Transparency International Hungary and the Hungarian Civil Liberties Union, letter to the members of the OGP Working Group about the Second OGP Outreach and Support meeting, 12 October 2012, <http://.2it.ly/1yHegQl>

<sup>3</sup> Hungarian Government OGP Portal, <http://.2it.ly/1yHg7op>

<sup>4</sup> Hungarian Government, “Decree No. 1104 of 2012 (IV.6.) on Government Anticorruption Actions and Ratification of the Administrative Corruption Prevention Program,” Hungarian Government OGP Portal, 2012, <http://.2it.ly/15AxT1h>



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- <sup>5</sup> “Summary of the Civil Society Organizations’ Recommendations [Submitted Prior to the First Working Group Meeting,” 6 September 2012, [Hungarian] <http://.2it.ly/15I3b71>;  
“Recommendations of the Civil Members of the Expert Working Group on the Open Government Partnership Commitments, September-October 2012, [Hungarian] <http://.2it.ly/1B9Xl6e>
- <sup>6</sup> Hungarian Government OGP Portal, *The Preparation of the Hungarian Open Government Partnership Country Action Plan*, report by the Hungarian Government (Process Summary, 2013), <http://.2it.ly/1JpZYXY>
- <sup>7</sup> Hungarian Government OGP Portal, *Public Consultation, Recommendations and Comments on the Open Government Partnership Commitments* report by the Hungarian Government (Report, January 2013), [Hungarian] <http://.2it.ly/1wwaOmi>; “Recommendations of the Civil Members of the Expert Working Group on the Open Government Partnership Commitments, September-October 2012, [Hungarian] <http://.2it.ly/1B9Xl6e>
- <sup>8</sup> These commitments include the following (as marked in the official action plan): (i) to disclose public motions by local government bodies (3.4); (ii) to organize trainings on freedom of information for civil servants (5.2); (iii) to lay down the rules of lobby activities (4.4); and (iv) to use the COFOG system supplemented by a graphic format to illustrate budget data in a more comprehensible way, but it has did not extend that criteria to public debt (1).
- <sup>9</sup> These commitments include the following (as marked in the official action plan): (i) While CSOs have recommended the disclosure of resolutions (“*határozat*”) from closed local governmental councils and committee meetings, the MPAJ made a commitment to hold open meetings for the utilization of local government property and procurement (3.3); (ii) Whereas CSOs suggested the organization of integrity trainings for local government and SOE employees, the MPAJ calls for the same only in the case of officials of state organs (5.1); (iii) Likewise, CSOs called for a number of specific changes in the context of public procurement – such as the establishment of an electronic public procurement system, disclosure of public procurement data in database form, enforcement of full compliance with the Public Procurement Law, decreasing legal remedy fees for suing non-compliers, and increased control of contract notices by the Public Procurement Office; but, the action plan made a commitment to revise the Public Procurement Law in terms of corruption risks (3.2) and to introduce identification numbers for each procurement organ and process in order to aid searchability on the Internet (2).
- <sup>10</sup> These commitments include the following: (i) the disclosure of governmental concepts and strategies, (ii) publicizing contracts on the use of public money in a database as well as sanctioning non-compliers, (iii) regulating the concept of “business secret” with regards to the use of public property, and (iv) the disclosure of local government decrees and meeting protocols.
- <sup>11</sup> Hungarian Government OGP Portal, *The Preparation of the Hungarian OGP Country Action Plan: Country Commitments*, report by the Hungarian Government (Report, 2013), <http://.2it.ly/15x3VuF>
- <sup>12</sup> Hungarian Government OGP Portal, *Public Consultation, Recommendations and Comments on the Open Government Partnership Commitments*, report by the Hungarian Government (Report, January 2013), [Hungarian] <http://.2it.ly/1wwaOmi>; Hungarian Government OGP Portal, *The Preparation of the Hungarian Open Government Partnership Country Action Plan*, report by the Hungarian Government (2013), <http://.2it.ly/1JpZYXY>;



### III. Action plan implementation

Consultation during implementation was marked by two phases. The first was a brief, cooperative phase. A second, more adversarial phase began when important participating CSOs exited the OGP process due to a series of conflicts they felt were inconsistent with the principles of open government.

#### Regular multi-stakeholder consultation

As part of participation in OGP, the Hungarian government established a high-level Civil Consultation Forum (CCF) to enable regular multistakeholder consultation on OGP implementation. The CCF had meetings on a regular basis throughout the implementation period. Due to the political scandal on a non-OGP related national case, some of the most active civil stakeholders opted out of the CCF and left the consultation forum as an act of protest in Spring 2013 (for more details, see Civil Society Organization Exits from the OGP Working Group). Nonetheless, the CCF remained active after this case and continued operation until 30 June 2013.

The CCF involved representatives of civil society and businesses. These primarily included advocacy groups active in the anticorruption and transparency field. In sum, the CCF had 18 official member organizations, including the OGP WG members, the National University of Public Services, the National Development Agency, and the Hungarian Civil Liberties Union.

Members of the forum received invitations to the monthly meetings by mail. The Department for Public Administration Development and Strategic Planning at the MPAJ was in charge of coordination and preparation of the work sessions and background documents (such as proposals and minutes).

The meetings of the CCF were all held in Budapest. The IRM researcher did not participate at the CCF meetings, but BIPA, the think tank the IRM researcher is affiliated with, was a member of both the OGP WG and the CCF.

Communication and, in particular, commitment to monitoring implementation was limited to formal channels. In the spring of 2013 the government published a thematic website in order to provide an online forum for sharing information and running consultations on the progress of the Program on Preventing Corruption in Public Administration (PPC), launched in 2012.<sup>1</sup>

Later, this specific website also covered the OGP-related government measures, providing information on the ongoing consultation process. Much of the information, however, was not very detailed and was quite selective. With the exception of commitments related to the integrity control system in the public sector, it contained no up-to-date news on progress by commitments, and no agenda or minutes on the work of CCF was provided.<sup>2</sup>

Both the CCF and the website operated throughout the implementation period.

For the list of members of the CCF and for information on the exiting members, see the Annex.

#### Civil Society Organization Exits from the OGP Working Group

Two scandals challenged the multistakeholder collaborative framework of OGP in Hungary.<sup>3</sup> The tobacco scandal and the amendment of the Act on Freedom of Information both dominated the public agenda in the spring of 2013. Following these events, some of the most active members of the WG left in an act of protest.

The first of these two scandals was a dubious tobacco retail public procurement tender.<sup>4</sup> In 2012, the Hungarian government decided to launch a new license regime for selling

tobacco products and opened an application process for sales licenses. Concerns were raised when a considerable share of the successful applicants were shown to be known affiliates of the ruling Fidesz party. No details of the tendering process were made public, but there were as-yet unsubstantiated allegations of inappropriate behavior during the awarding of licenses.

In May 2013, a few weeks after the Hungarian OGP commitments had been adopted and shortly after the details of the tobacco retail licenses scandal surfaced, the Parliament passed an amendment to the Act on Freedom of Information (FoI)<sup>5</sup> in an urgent procedure of three days. The amendment caused much controversy. This amendment was aimed at providing greater flexibility for governmental bodies to reject public information requests (based on arguments of “abusive” request, leaving the definition of the latter as a matter of interpretation decided by the public authority receiving the request). Later this amendment was modified with provisions defining the case of “abusive” request in more details.

Civil society groups pointed to particular problems related to the justification and the implementation of the amendments, which quickly followed the tobacco scandal.

Four leading CSOs (K-Monitor, a watchdog for public funds; the investigative portal, Atlatzo.hu; the Hungarian Civil Liberties Union; and Transparency International Hungary) warned President János Áder about the dangers of the proposed legislation in a detailed letter.<sup>6</sup>

Following the adoption of the Bill, the aforementioned organizations decided to leave both the anticorruption and the OGP WG, claiming that the amendments represent a step back in the struggle for a strong civil society with unlimited access to information of public interest.<sup>7</sup> They also stressed that the credibility of the government in compliance with the adopted commitments had been seriously challenged.<sup>8</sup>

The exit of the high-profile CSOs challenged the government, but officials’ willingness to run multistakeholder consultations was unaffected by the legislative change in the FOI regulatory framework.

Some CSOs were critical about the progress of the national action plan in 2013 and 2014.<sup>9</sup> Exiting organizations still active in the field shifted their work from an “inside strategy” to an “outside strategy.” That means, despite their exit from the OGP WG, these organizations continued their work on monitoring the government’s progress in implementation and provided feedback to the government via channels other than the OGP WG. They worked through public letters, press statements, blog posts, and media appearances. Consequently, civil society influence might be effective, but only in an informal way. Many CSO actors called the government actions “quasi-actions” instead of real steps with the intention of bringing about a more transparent and less corrupt public and private sector.

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<sup>1</sup>“Civil Society Cooperation,” Hungarian Corruption Prevention Program, <http://.2it.ly/1L8AL68>

<sup>2</sup>“Open Government Partnership,” Hungarian Corruption Prevention Program, <http://.2it.ly/1Jq47eI>

<sup>3</sup>“Hungary Restricts FOI Law; OGP Membership Questioned,” Country Info, FreedomInfo.org, 3 May 2013, <http://.2it.ly/1uMTijB>; “What Does Open Government and Partnership Mean to the Hungarian Government?,” Transparency International Hungary, 30 April 2013, <http://.2it.ly/1D6ByPy>

<sup>4</sup>“The Coming Dark Age of Democratic Governance in Hungary,” Atlatzo.hu, 8 March 2013, <http://.2it.ly/1L8BVhX>

<sup>5</sup> Hungarian Parliament, “Act No. CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information [2011. évi CXII. törvény - az információs önrendelkezési jogról és az információszabadságról],” Nemzeti Adatvédelmi és Információszabadság Hatóság (NAIH), 1 January 2012, <http://.2it.ly/1ww1AGH>

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<sup>6</sup> Members of K-Monitor, Transparency International Hungary, Hungarian Civil Liberties Union, Atlatzo.hu, letter to the President of Hungary Dr. Janos Ader about the accepted amendments of the Hungarian FOI legislation, 2 May 2013, <http://.2it.ly/1EkoxWi>

<sup>7</sup> “Government Closing In On Freedom of Information,” News, Hungarian Civil Liberties Union, 8 May 2013, <http://.2it.ly/15Iago3>; “Hungary Restricts FOI Law; OGP Membership Questioned,” Country Info, FreedomInfo.org, 3 May 2013, <http://.2it.ly/1uMTijB>; Sandor Lederer, “While Joining the OGP, Hungary Weakens Its FOI Legislation,” Blog, Open Government Partnership, 2 May 2013, <http://.2it.ly/1yhDCj5>

<sup>8</sup> The CSOs that left the anticorruption working group were the Budapest Institute for Policy Analysis, K-Monitor, Hungarian Civil Liberties Union (TASZ), and Transparency International Hungary.

<sup>9</sup> “What Does Open Government and Partnership Mean to the Hungarian Government?,” Transparency International Hungary, 30 April 2013, <http://.2it.ly/1EJ9tyP>

## IV. Analysis of action plan contents

All OGP-participating governments develop OGP country action plans that elaborate concrete commitments over an initial two-year period. Governments begin their OGP country action plans by sharing existing efforts related to their chosen grand challenge(s), including specific open government strategies and ongoing programs. Action plans then set out governments' OGP commitments, which stretch government practice beyond its current baseline with respect to the relevant policy area. These commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area.

OGP commitments are to be structured around a set of five “grand challenges” that governments face. OGP recognizes that all countries are starting from different baselines. Countries are charged with selecting the grand challenges and related concrete commitments that most relate to their unique country contexts. No action plan, standard, or specific commitments are to be forced on any country.

The five OGP grand challenges are:

1. **Improving Public Services**—measures that address the full spectrum of citizen services including health, education, criminal justice, water, electricity, telecommunications, and any other relevant service areas by fostering public service improvement or private sector innovation.
2. **Increasing Public Integrity**—measures that address corruption and public ethics, access to information, campaign finance reform, and media and civil society freedom.
3. **More Effectively Managing Public Resources**—measures that address budgets, procurement, natural resources, and foreign assistance.
4. **Creating Safer Communities**—measures that address public safety, the security sector, disaster and crisis response, and environmental threats.
5. **Increasing Corporate Accountability**—measures that address corporate responsibility on issues such as the environment, anticorruption, consumer protection, and community engagement.

While the nature of concrete commitments under any grand challenge area should be flexible and allow for each country's unique circumstances, OGP commitments should be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP participating countries. The IRM uses the following guidance to evaluate relevance to core open government values:

- **Access to information**—These commitments:
  - pertain to government-held information;
  - are not restricted to data but pertain to all information;
  - may cover proactive or reactive releases of information;
  - may pertain to strengthen the right to information; and,
  - must provide open access to information (it should not be privileged or internal only to government).
- **Citizen participation** — Governments seek to mobilize citizens to engage in public debate, provide input, and make contributions that lead to more responsive, innovative, and effective governance. Commitments around access to information:
  - open decision making to all interested members of the public; such forums are usually “top-down” in that they are created by government (or actors empowered by government) to inform decision making;

- often include elements of access to information to ensure meaningful input of interested members of the public into decisions;
- often include enhancing citizens' right to be heard, but do not necessarily include the right to be heeded.
- **Public accountability**—Rules, regulations, and mechanisms in place call upon government actors to justify their actions, act upon criticisms or requirements made of them, and accept responsibility for failure to perform with respect to laws or commitments. As part of open government, such commitments have an "open" element, meaning that they are not purely internal systems of accountability without a public face.
- **Technology and innovation for transparency and accountability**—Commitments for technology and innovation promote new technologies, offer opportunities for information sharing, public participation, and collaboration. Technology and innovation commitments:
  - should make more information public in ways that enable people both to understand what their governments do and to influence decisions;
  - may commit to supporting the ability of governments and citizens to use technology for openness and accountability;
  - may support the use of technology by government employees and citizens alike;
  - may focus on the national, local and/or subnational level—, wherever the government believes their open government efforts will have the greatest impact.

Recognizing that achieving open government commitments often involves a multiyear process, governments should attach time frames and benchmarks to their commitments that indicate what is to be accomplished each year, whenever possible.

This section details each of the commitments in Hungary's initial action plan. While most indicators used to evaluate each commitment are self-explanatory, a number deserve further explanation.

1. **Relevance:** The IRM researcher evaluated each commitment for its relevance to OGP values and OGP grand challenges.
  - **OGP values:** To identify OGP commitments with unclear relationships to OGP values, the IRM researcher made judgments from a close reading of the commitment's text. These judgments reveal commitments that can better articulate a clear link to fundamental issues of openness.
  - **Grand challenges:** While some commitments may be relevant to more than one grand challenge, the IRM researcher only marked challenges that had been identified by government.
2. **Ambition:** The IRM researcher evaluated each commitment for how ambitious commitments were with respect to new or pre-existing activities that stretch government practice beyond an existing baseline.
  - **Potential impact:** To contribute to a broad definition of ambition, the IRM researcher judged how potentially transformative each commitment might be in the policy area. This is based on the IRM researcher's findings and experience as a public policy expert.
  - **New or pre-existing:** Based on the facts, the IRM researcher also recorded whether a commitment was based on an action that pre-dated the action plan.
3. **Timing:** The IRM researcher evaluated each commitment's timing, even when clear deliverables and suggested annual milestones were not provided.

- Projected completion: In cases where this information was not available, the IRM researcher made a best judgment based on the evidence of how far the commitment could possibly be at the end of the period assessed.

### General overview of the commitments

In 2012, the Hungarian government identified three focus points of the national action plan:

1. Improvement of the integrity of public administration agencies,
2. Improvement of the quality of public services, and
3. Improvement of the efficiency of using community resources.

The commitments were articulated with an eye on these government priority areas after taking into account the recommendations given by the national CSOs. The Hungarian Government explicitly considered the OGP action plan as an integral part of a more comprehensive policy reform strategically driven by the Magyary Program (the mid-term development program aimed at reforming the public administration system, launched in 2011). For more details on the above strategic programs, see Section VI on “Country Context.”

A significant share of the planned measures (eight out of the 16 separate commitments) in the final version of the national plan was taken from the Program on Preventing Corruption in Public Administration (PPC). As noted above, the Government adopted PPC in April 2012, at the time when national CSOs called for joining the OGP. Consequently, the goals and the scope of the national action plan are explicitly related to anticorruption.

Civil society groups interviewed expressed strong opinions about the scope and ambition of the action plan as a whole. Most respondents admitted that the decision to join the OGP was an important step toward better public governance. However, the actual commitments were very selective (not covering all the OGP priority areas), as well as limited in their effectiveness and expected impact on the operation of public authorities in general.

During the planning process, CSOs active in the area of anticorruption and freedom of information already were concerned about the government’s implementation capacities. Their concern primarily is based on their experience of the very slow progress and massive delays in the implementation of the anticorruption program.

The CSOs’ overall assessment of the national commitments is the following: the Hungarian commitments are very important in terms of their target area and the problem areas they address, but they are not ambitious enough to bring about significant changes in the transparency of the public sector.

In addition, some CSOs stress that most of the commitments stem from earlier government programs. According to some views, “The final action plan is a mere repetition of the government’s anticorruption program ... the actual commitments do not guarantee a more open and transparent government.”<sup>1</sup>

According to the IRM researcher, both high-level officials and experts at the MPAJ (the government agency in charge of the OGP measures) recognized that the idea of open government goes far beyond anticorruption. Nevertheless, two factors narrowed down their scope during the planning phase: (1) path-dependency and (2) the extremely risk-averse attitude of the government agencies involved. On the one hand, both the Magyary Program and the anticorruption program determined the set of measures public agencies could think about. Both programs were launched ahead of joining the OGP, and they seemed to match the policy challenges identified by the OGP, at least in part. On the other hand, since implementation of the pre-existing measures was in delay and any

new action increased the probability of failure, the explicit government preference was to launch actions that surely could be accomplished by the end of the implementation period. This is understandable, if we take into consideration the management capacity constraints in the Hungarian public sector. But it is questionable if we think that open government should also imply changing the organizational culture and efficiency in the public sector in the long term.

### Clustering

The national action plan listed 16 commitments grouped by the following thematic areas:

1. Publicity of fiscal data (1 commitment)
2. Searchability of public procurement data (1 commitment)
3. Disclosure of public contracts (4 commitments)
4. Integrity control system in the public sector (6 commitments)
5. Dissemination of information on anticorruption and integrity (4 commitments)

The IRM researcher, following consultations with the OGP IRM team in Washington, DC, relied on these thematic groups while generating five clusters of commitments. The structure of this report follows the scope and content of the above thematic groups.

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<sup>1</sup> “What Does Open Government and Partnership Mean to the Hungarian Government?,” Transparency International Hungary, 30 April 2013, <http://2it.ly/1EJ9tyP>

## 1: Improving the publicity of fiscal data

*In order to provide better information to citizens about fiscal issues, Hungary undertakes to present the data of the draft central budget and its amendments as well as the actually implemented budget through figures and charts as well, broken down to items according to Level 2 of the COFOG (Classification of the Functions of Government) developed by the United Nations.*

- Presenting the data of the draft central budget and its amendments as well as the actually implemented budget through figures and charts.
- Presenting government expenditure data according to Level 2 groups of the UN Classification of the Functions Of Government [COFOG].

Commitment Description						
Answerability	Lead institution	Ministry of Public Administration and Justice				
	Supporting institutions	Ministry for National Economy Hungarian State Treasury				
	Point of contact specified?	No				
Specificity and measurability		Medium (Commitment language describes an activity that is objectively verifiable, but does not contain specific milestones or deliverables)				
Relevance	OGP grand challenges	More effectively managing public resources				
	OGP Values	Access to Information	Civic Participation	Public Accountability	Tech & Innovation for Trans. & Acc.	Unclear
		?				
Ambition						
New vs. pre-existing		New				
Potential impact		Minor: An incremental but positive step in the relevant policy area.				
Level of completion						
Start date: 01-09-2013				End date: 30-06-2014 (original: 30-06-2013)		
Projected completion		No Dates or Milestones Inferable		Actual completion	Complete	
Next steps		Further steps required in next action plan.				

### What happened?

This commitment was completed.

In Hungary, policy debates, as well as the media, frequently discuss government revenues and expenditures. However, factual, politically unbiased and easy-to-understand information about *actual* budget items and proportions has been in short supply.

Prior to the formulation of the OGP action plan, official budget documents were only available in the form of budget bills and acts, which are difficult to interpret for the average citizen due to the legislative jargon and to the complicated classification of expenditures: these documents classify expenditures by agency rather than by expenditure category (i.e., budget items broken down by level of government rather



than by functions; see also Eurostat's Classification of the Functions of Government (COFOG)<sup>1</sup>). Eurostat provides broken down COFOG2 data, but for past budgetary years only. The COFOG2 breakdown counts as a crucial development in fiscal transparency because it shows public spending by expenditure categories. It indicates the policy areas of the spending items rather than information on the spending agencies or institutions, where understanding what the specific agencies spent the money on is not always obvious.

To address this issue, the Hungarian State Treasury published central budget data on its own website in 2014.<sup>2</sup> The data is novel in that it is available in a functional breakdown - though it is not fully compatible with the official COFOG breakdown - for the actual budget year in Hungarian. The dataset contains the figures of both the adopted budget and the final accounts for the period 2004-2014 and it is downloadable in a user-friendly format (XLS) containing a few simple charts and graphs that make the interpretation of the big picture about budget data easier.

The commitment is very concrete and it was completed, although with delay. However, the government has not communicated its achievement via any official channel (e.g., OGP website or any other government site). According to the government contact point, the database published is still in test-version. It is available on the website of the Hungarian State Treasury, and public communication on this disclosure will follow after the end of the test-period.

#### Did it matter?

Before the implementation of this commitment, there was no convenient, online government database on the spending or expenditure items of the central government. Two online databases were available at the time of the launch of the action plan. CSOs prepare and published both of them: Our Money!<sup>3</sup> and Common Budget.<sup>4</sup>

There was a good reason why CSOs put forward the recommendation of better disclosure in public budgets both central and local budgets. The aim and envisaged content of CSOs' recommendations were slightly different from the Government's understanding of this issue. The original proposals stressed the public disclosure of both central and municipal budgets and the need to disclose budget information at a more detailed level (e.g., COFOG level 3, in the case of central budget). These proposals were drafted with the ambition to follow the existing, international good practices and improve the fiscal transparency in the country.<sup>5</sup>

During the intra-government consultations, the issue of local budgets was put aside. Reference was made to the ongoing reform of the municipality system, and the disclosure of more detailed budget data was rejected because of "disproportionate administrative burden" levied on the data providers.<sup>6</sup>

Although the Government took up a less ambitious measure than recommended, implementation was delayed. The planned budget information was first made available on the website of the National State Treasury in August 2014.<sup>7</sup>

However, a few stakeholders expressed their concerns about the quality of the database: The consistency of the budget items over time is questionable. The categorization of some sub items (COFOG2 level items, such as expenditures on secondary education)) does not seem to follow a consistent pattern over time, causing discontinuities (jumps) in the time-series. These jumps indicate that there might have been some changes in the definition of certain budget items from one year to the other, which – in the absence of appropriate explanatory comments – makes the database difficult to be used. Secondly, the database has been created using a modified COFOG classification (i.e. it uses sixteen COFOG1-level categories, while the standard COFOG system uses only ten), which makes the international comparison of the Hungarian expenditures items difficult.

As a consequence, the published dataset is not completely compatible with the COFOG standards, which means that the Hungarian expenditure data cannot be compared without background calculations with the budget data of other (benchmark) countries or with the Hungarian expenditure items of different years. While a methodological note is available on the Hungarian State Treasury's website about the construction of the database, it does not contain details that would answer the problems listed here.

### Moving forward

All stakeholders welcomed this commitment. However, according to the independent experts in the field, the way the central budget was finally disclosed is problematic. There is a need to improve the published data with respect to longitudinal and cross-country comparison. In addition, information on the availability of the dataset and improvement in the ease of access to the dataset would be highly recommendable.

In interviews with the IRM researcher, national stakeholders confirmed their interest in budget data from both central and local government levels, and they emphasized the advantages of properly detailed data for public policy analysis as well as for advocacy work.

The IRM researcher also stresses the need to incorporate fiscal management and transparency issues into the national curricula in schools. Fiscal management also is necessary for business opportunities to develop interactive applications on local budgets and on monitoring local spending items.

As a consequence, the following commitments could be undertaken in the next action plan:

- Take steps to improve the quality of categorization of different spending items in the database so that a comparison of spending items over time and across countries becomes less time-consuming;
- Take steps to improve the quality of visualization of the budget data
- Take steps to facilitate the publishing of user-friendly, easily accessible local-level spending data;
- Take steps to incorporate fiscal management and transparency issues into school curricula and to launch a pilot project on the elaboration and testing of teaching modules.

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<sup>1</sup> "Statistics Explained," European Commission Eurostat, <http://.2it.ly/1GTPX7z>

<sup>2</sup> "Government Expenditure by Function [Hungarian]," Hungarian State Treasury, <http://.2it.ly/1zb3LqR> [http://www.allamkincstar.gov.hu/hu/koltsegvetesi-informaciok/funkcionalis\\_merleg/2630/](http://www.allamkincstar.gov.hu/hu/koltsegvetesi-informaciok/funkcionalis_merleg/2630/)

<sup>3</sup> A Mi Pénzünk [Our money!], <http://.2it.ly/1yZgjOS>

<sup>4</sup> Közös-kassza [Common budget], <http://kozaskassa.hu/>

<sup>5</sup> "Summary of the Civil Society Organizations' Recommendations [Submitted Prior to the First Working Group Meeting]," 6 September 2012, [Hungarian] <http://.2it.ly/15I3b71>

<sup>6</sup> Hungarian Government OGP Portal, *The Preparation of the Hungarian OGP Country Action Plan: Country Commitments*, report by the Hungarian Government (2013), <http://.2it.ly/15x3VuF>

<sup>7</sup> Hungarian State Treasury, <http://.2it.ly/1zb3LqR>

[http://www.allamkincstar.gov.hu/hu/koltsegvetesi-informaciok/funkcionalis\\_merleg/2630/](http://www.allamkincstar.gov.hu/hu/koltsegvetesi-informaciok/funkcionalis_merleg/2630/)

## 2: Improving the searchability of public procurement data

*In order to secure the publicity of public procurement data, Hungary undertakes to ensure that public procurement announcements and communications (data published in relation to public procurement tenders in an official journal or on a central state website for public procurement tenders as required by statutory provisions) are disclosed in a way that every single contractor (except for the case of legal succession) is allocated a permanent unique identification code and every single public procurement procedure is allocated a unique identification code that is permanent in the given procedure. This will make it easier to search and query any disclosed public procurement document based on the unique identification code of the agency or procedure in question.*

Commitment Description						
Availability	Lead institution	Ministry of Public Administration and Justice				
	Supporting institutions	Ministry of National Development Public Procurement Authority				
	Point of contact specified?	No				
Specificity and measurability		2.1 Allocating a permanent unique identification code to every single contractor.	High (Commitment language provides clear, measurable, verifiable milestones for achievement of the goal)			
		2.2 Allocating a unique identification code that is permanent in the given procedure to every single public procurement procedure	High			
Relevance	OGP grand challenges	More effectively managing public resources				
	OGP values					
	Milestone	Access to Information	Civic Participation	Public Accountability	Tech & Innovation for Trans. & Acc.	Unclear
	2.1 Contractor ID	✓				
	2.2 Procedure ID	✓				
Ambition						
Milestone		New vs. pre-existing	Potential impact			
2.1 Contractor ID		New	Minor: An incremental but positive step in the relevant policy area.			
2.2 Procedure ID		New	Minor: An incremental but positive step in the relevant policy area.			

<b>Level of completion</b>			
<b>2.1 Contractor ID</b>			
<b>Start date:</b> 25-02-2013		<b>End date:</b> 30-09-2013	
<b>Projected completion</b>	No Dates or Milestones Inferable	<b>Actual completion</b>	Complete
<b>2.2 Procedure ID</b>			
<b>Start date:</b> 25-02-2013		<b>End date:</b> 30-09-2013	
<b>Projected completion</b>	No Dates or Milestones Inferable	<b>Actual completion</b>	Complete
<b>Next steps</b>			
2.1 Contractor ID		Further steps required in next action plan.	
2.2 Procedure ID		Further steps required in next action plan.	

### What happened?

These two commitments have been completed.

The Public Procurement Authority has operated the Public Procurement Database ([kozbeszerzes.hu](http://kozbeszerzes.hu)) since 2012. The database contains basic information of the procurement procedures, such as the contract date, contracting parties, and the value of the contract. A new online public procurement search engine was launched in 2012, which considerably improved the accessibility and user-friendliness of procurement data.

There is, however, room for improvement. Crucial features are still missing from the online tool, such as options to download data in user-friendly formats (e.g., .xls or .csv-formats) or to track tendering companies and public institutions based on numerical identifiers (e.g., company tax number). The currently available option of tracking them by their names leaves too much room for failed searches due to typos or to the use of company name abbreviations.<sup>12</sup>

While the Law on Public Procurement (in effect since July 2011)<sup>3</sup> has already specified the steps to make the online public procurement database more transparent and user-friendly, the unique identifiers for procurers and procurement procedures were introduced only in 2014, following the amendments of the new public procurement act (July 2013, November 2013)<sup>4</sup>. The improvements were not communicated officially to the broader public.

### Did it matter?

Some CSO representatives interviewed in this process heard about these steps and acknowledged them as an important element of a more functional database. Nevertheless, they also said that this measure was a necessary, although not sufficient, step to ensure the smooth operation of the search engine embedded into the database. In order to improve the searchability of the public procurement data and the transparency of public procurement procedures in an effective way, unique identifiers should be assigned to the bidders (economic operators, firms). Moreover, the already-assigned procedure IDs should be used in each government document with relevance to the given procedure (e.g., decisions by the National Procurement Arbitration Board, announcements on the website of the National Procurement Authority). In addition, the database should be available for download in bulk in order to allow for more thorough analysis of procurement information.

The IRM researcher also thinks that any update of the database and its functionalities should pass the test of added value in the search process. If users cannot monitor and compare the results and the critical parameters of procurements across time, firms, and procedures, and if the upgrades do not comply with the requirement of machine-

readable and time-efficient solutions that minimize the search time and the risk of human error, any change in the way the database operates is just a pro forma improvement.

### Moving forward

According to the civil stakeholders interviewed, a number of steps would aid further progress. In line with the IRM researcher's view, the following steps would significantly increase the public value and the professional quality of the public procurement database:

- Upload all documents to the Public Procurement Database relevant to the specific procurement procedure based on a checklist that enumerates all the obligatory administrative elements of the procurement process (e.g., contract notice, contract, award notice).
- Unique identifiers (i.e., tax numbers) should be assigned to the bidders (economic operators) because currently they are only identifiable based on their company name, which is usually not used in a consistent way across the documents. It can vary due to mistakes arising from typos, misspellings, and alternative abbreviations.
- Make the public procurement database downloadable in machine-readable data format (i.e., .xls or .csv).
- Linked procurement procedures should be easily identifiable through the unique identifiers (i.e., the unique identifier should contain an element that is common in linked procedures).
- The Public Procurement Arbitration Board decisions should refer clearly to these identifiers in their decisions, so as to make effective use of this innovation.

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<sup>1</sup> "Használhatatlan Adatbázis Rejti a Politikavezérelt Közbeszerzéseket [Useless Database Gives Home to Public Procurements Driven by Political Interest]," *Atlatszo.hu*, 24 January 2014, <http://.2it.ly/1zKkQr6>

<sup>2</sup> Novak Benjamin, "Interjú Léderer Sándorral, a K-monitor Vezető Magyar Korrupciófigyelő Szervezet Vezetőjével [Interview with Sándor Léderer, the Director of K-monitor a watchdog for public funds organization], *Featured Articles, A Budapest Beacon*, 25 March 2014, <http://.2it.ly/1utIMba>

<sup>3</sup> Act no CVIII of 2011 on Public Procurement Proceedings [2011. évi CVIII. törvény a közbeszerzésekről] [http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=A1100108.TV](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100108.TV)

<sup>4</sup> Act no CXVI of 2013 on the amendment of the Act no CVIII of 2011 on Public Procurement Proceedings [2013. évi CXVI. Törvény, a közbeszerzésekről szóló 2011. évi CVIII. törvény módosításáról] <http://www.complex.hu/kzldat/t1300116.htm/t1300116.htm>

### 3: Checking compliance with disclosure obligations

*Improvement of the publicity of contracts concluded for the utilisation of public property and with the use of public funds, Hungary undertakes to provide for the following even through legislative amendments, if necessary:*

- *the examinations of independent and governmental state organs authorised to carry out compliance checks should always extend to compliance with disclosure obligations*
- *experience gained concerning the implementation of the Public Procurement Act as well the rules of national and community budgetary financial assistance should be reviewed, with special respect to compliance with statutory provisions on the freedom of electronic information and paying special attention to the form and content of the eventual further increase of publicity*
- *the utilisation of local government property and procurements should be discussed in open meetings, except for meetings convened for the evaluation of tender procedure results where the bidder or applicant excluded the disclosure of part of its application because it qualifies as business secret which relates to its own activities but does not relate to substantial elements of the contract to be concluded, or if an open meeting would breach secrecy of a business company owned by the local government*
- *public motions by local government bodies should be disclosed on the local government's website after sending out the invitations and together with such invitations<sup>1</sup>*

Commitment Description			
Answerability	Lead institution	Ministry of Public Administration and Justice	
	Supporting institutions	State Audit Office of Hungary Public Procurement Authority	
	Point of contact specified?	No	
Specificity and measurability	3.1 Compliance checks extended to disclosure obligations	Low (Commitment language describes activity that can be construed as measurable with some interpretation on the part of the reader)	
	3.2 Review of the Public Procurement Act	Low (Commitment language describes activity that can be construed as measurable with some interpretation on the part of the reader)	
	3.3 Holding open meetings about the utilization of local government property	High (Commitment language provides clear, measurable, verifiable milestones for achievement of the goal)	
	3.4 Disclosure of public motions by local	High (Commitment language provides clear, measurable, verifiable milestones for achievement of the goal)	

		government bodies				
R el ev an ce	OGP grand challenges	None specified				
	OGP values					
	Milestone	Access to Information	Civic Participation	Public Accountability	Tech & Innovation for Trans. & Acc.	Unclear
	3.5 Compliance checks extended to disclosure obligations	✓		✓		
	3.6 Review of the Public Procurement Act (PPA)	✓				
	3.7 Holding open meetings about the utilization of local government property			✓		
	3.8 Disclosure of public motions by local government bodies	✓		✓		
Ambition						
Milestone		New vs. pre-existing	Potential impact			
3.1 Extending compliance checks		Pre-existing	Minor: An incremental but positive step in the relevant policy area.			
3.2 PPA review		Pre-existing	Moderate: A major step forward in the relevant policy area, but remains limited in scale or scope.			
3.3 Local gov open meeting		New	Minor			
3.4 Local gov public motions		New	Minor			
Level of completion						
3.1 Extending compliance checks						
Start date: 01-12-2013			End date: 30-06-2014 (original: 30-06-2013)			
Projected completion	Limited		Actual completion	Limited		
3.2 PPA review						
Start date: 25-02-2013			End date: 30-06-2013			
Projected completion	Complete		Actual completion	Complete		
3.3 Local gov property meeting						
Start date: 25-02-2013			End date: 30-06-2014			
Projected completion	Limited		Actual completion	Limited		
3.4 Local gov public motions						



<b>Start date:</b> 25-02-2013		<b>End date:</b> 30-06-2013	
<b>Projected completion</b>	Limited	<b>Actual completion</b>	Limited
<b>Next steps</b>			
<b>3.1 Extending compliance checks</b>	Further steps required in next action plan.		
<b>3.2 PPA review</b>	No further steps required in next action plan.		
<b>3.3 Local gov open meeting</b>	Further steps required in next action plan.		
<b>3.4 Local gov public motions</b>	Further steps required in next action plan.		

#### What happened?

This set of commitments had mixed results in terms of completion. While the Public Procurement Act had been reviewed, very little progress had been made on the other three commitments.

#### *Compliance Checks*

In Hungary, a very limited number of public entities comply with the disclosure obligations described by the relevant national regulations.<sup>2</sup> For the results of research on municipalities and state-owned enterprise compliance with public disclosure rules, see Section VI. Country Context.” The launch of an enforcement mechanism would be vital. The SAO performs public audits and specific compliance checks of public entities on a regular basis and, therefore, incorporating this activity into the SAO’s operation is reasonable.

According to official government sources, internal rules of procedures determining the independent control agencies’ practice were not amended. Government sources informed the IRM researcher that although no new regulation was put into force, the SAO already has begun to incorporate this activity into its operations (e.g., SAO’s examination of municipalities involve these elements).

#### *Public Procurement Act Review*

The new Law on Public Procurement<sup>3</sup> (in effect since July 2011) was amended in May and June 2013 and took effect on 1 July 2013.<sup>4</sup> The amendments aimed at the following:

- Simplifying the procurement procedures through increased online accessibility of various procurement documents, thereby decreasing the costs associated with accessing tender documents,
- Enforcing the upload of all related tender documents to the online system of the Procurement Authority by procurers, and
- Improving searchability of the Public Procurement Database.

In line with the regulatory change, the Public Procurement Authority also prepared a guideline to improve the transparency of small value procurements with cross-border relevance. The guideline specifies requirements for how the announcements should be made and how more detailed information should be disclosed.

#### *Local Government Reforms*

Milestones 3.3 and 3.4 oblige local governments to hold open meetings about the utilization of local government property and to make public motions. Proposals are to be discussed at local government meetings that have public and online invitations (e.g., on the website of the local government).



The government contact acknowledged that progress regarding these milestones was very limited. Already in the drafting period, the MPAJ initiated modifications to the planned measures (originally drafted in line with CSO recommendations) due to the pressure from the Association of Cities with County Rights (the Association) and the Ministry of Interior. The Association strongly disagreed with the planned measures and argued that, in some cases, open meetings and public motions would violate the municipalities' economic interest.

### Did it matter?

#### *Compliance Checks*

Research evidence shows that most of the local municipalities in Hungary violate the provisions on public disclosure. Websites of public authorities and state owned enterprises often barely meet the required standards on public disclosure. Further, the quality of the disclosed information is low and shows only moderate improvement over time.<sup>5</sup>

Evidently, the core challenge is with the consistent monitoring and effective enforcement of the legal requirements. Extension of compliance checks run on this matter by the SAO is a necessary, but not sufficient step, toward effective enforcement because the SAO can not impose any positive or negative incentives. Earlier experiences show that publication of SAO data about the levels of regulatory compliance does not guarantee that public institutions will change the course of their operations.

According to the IRM researcher, monitoring is important. In the last years, civil society initiatives filled the gap due to a lack of public monitoring. Still, enforcement is very weak, and even if the capacity of public control agencies is developed in this field, the lack of effective incentives (e.g., positive financial incentives) may challenge the process.

#### *Public Procurement Act Review*

The review of the public procurement regulations was already in progress when implementation of the OGP action plan started. The revision of the public procurement framework has been steady for the last decade due to the Government's priority of increasing transparency of the public procurement system and leveling the playing field for small and medium-sized enterprises.

Following the enactment of the new public procurement regulations in 2011,<sup>6</sup> both national and international actors lamented the absence of effective sanctioning tools in case of non-compliance with procurement rules. They proposed further fine-tuning of the new regulations.<sup>7</sup> CSOs pointed to the high level of national thresholds in regional comparison, as compared to the lower national thresholds in Slovakia and Poland, for instance, which hampers the effective fight of corruption by not minimizing corruption risks.<sup>8</sup>

Recently, CSOs interviewed by the IRM researcher during this review questioned whether the new act and its ongoing amendments could have effectively contained corruption, especially in the case of small-value contracts, which constitute a significant share of the overall volume of public procurements. Many claimed that enhanced simplicity was achieved at the cost of leaving too much potential for corruption. Some amendments are said to distort competition and potentially even close off areas of disclosure that were previously public (e.g., regulations applicable when procurement contracts are below the EU threshold and amendments on widening the scope of tenders that are allowed to be undisclosed publicly).

The amendment of the PPA<sup>9</sup> in 2013 brought about changes in important areas such as unlimited online access to all tender documentation in the database of the Public Procurement Authority and reduced administrative burden associated with tendering.

Nonetheless, concerns regarding the adequacy and effectiveness of the public procurement regulation remained vastly unsolved. For example, the European Commission raised concerns over the lack of effective compliance mechanisms throughout the entire procurement cycle. The European Commission's recent country report stressed the disadvantages of the low level of competition in public procurements in Hungary.<sup>10</sup>

The IRM researcher thinks that ongoing fine-tuning of the public procurement regulations is a standard practice in Hungary. Recent amendments may clearly support civil control, that is, systematic tracking and monitoring of public procurement procedures. But the enforcement mechanism should be strengthened by further improvements of the Public Procurement Database (see commitments in Cluster 2) and more systematic compliance checks by state control agencies in the field.

#### *Local Government Reforms*

In the IRM researcher's view, the implementation of these two measures would be important steps forward in achieving transparent local governance and stimulating stronger civil participation at local matters. There are some good local practices in opening up the daily operation of local authorities, and these commitments could add to this trend. Still, the fact that the Association had persistent counterarguments with the support of the Ministry of Interior shows that there is still a long way to go in changing attitudes on the standard way of running local public affairs.

#### **Moving forward**

National CSOs mostly criticized the procedural and content-specific aspects of the new public procurement regulatory framework.<sup>11</sup> Their most important recommendations follow:

1. In order to increase transparency, publishing information on the awarding and accomplishments of contracts in the Public Procurement Bulletin should be compulsory.
2. Contracts below the value of the national threshold should be subject to publishing obligations of the related documents in the official bulletin.
3. The Public Procurement Authority should double-check public procurement procedures not exceeding the national threshold, given their massive proportion in the overall portfolio (at least half of the procurements are below this threshold and, therefore, are subject to significantly softer disclosure and publication rules).
4. Sanctioning mechanisms should be in place for enforcing compliance with the obligations.

Some interviewed CSO representatives stressed that relevant national regulations need to be improved to push the existing municipality practices toward more transparency. For example, the definition of business secret in the public sector specified and restricted to special cases in the FOI regulations needs to be harmonized with the regulations. Additionally, the new Civil Code<sup>12</sup> and the new local government act<sup>13</sup> (in effect since July 2011) need to be harmonized with the aforementioned regulations. The current regulations leave the municipalities too much freedom to decide to hold closed meetings if, in their judgment, an open meeting would hamper their economic interest.<sup>14</sup> In addition, effective enforcement should be addressed following the future regulation.

In the IRM researcher's point of view, the next action plan should continue working on all of the issues in this cluster. In checking compliance with statutory public disclosure rules, it would be helpful to extend explicitly the competences of the independent control bodies (the Government Control Office and the SAO) to be able to enforce compliance in a more effective way. Notably, formal cooperation with nongovernmental

actors such as CSOs and watchdogs in monitoring could bring benefits in terms of effective enforcement.

For public procurement, emphasis should be placed especially on the following:

- Fostering competition in public procurements. For example, introducing a market-distortion test that the National Competition Authority could run ex post on a random sample of public procurements should trigger fines (or any other negative sanctions) imposed on faulty procurers. This step would fit the open government agenda by leveling the playing field for potential competitors and by effectively reducing the entry costs to new entrants in the public procurement market.
- Limiting the number of procedures exempted from standard procedures (for example, via lowering national thresholds).

Holding open meetings before the utilization of local government property is an important commitment that should be launched along with enforcing mechanisms and complementary actions (i.e., publishing the agenda and proposals online).

It also would be important to extend the SAO's mandate and capacities to check public disclosure practices, including those of central and local level public entities as well as state-owned enterprises.

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<sup>1</sup> Hungarian Ministry of Foreign Affairs, "The Fundamental Law of Hungary," revised by the Ministry of Public Administration and Justice, 25 April 2011, [English] <http://.2it.ly/1u1AgAU>

<sup>2</sup> "2005 Évi XC. Törvény az elektronikus információszabadságról [Act XC of 2005 on the Freedom of Information by Electronic Means]," 2005, [Hungarian] <http://.2it.ly/1EjfrzM>; "2013. Évi L. törvény az állami és önkormányzati szervek elektronikus információbiztonságáról [Act L of 2013 on the Electronic Information Security of Central and Local Government Agencies]," 2013, [Hungarian] <http://.2it.ly/1yhHOz6> and [English] <http://.2it.ly/1L8FXqG>

<sup>3</sup> "2011. Évi CVIII. Törvény a Közbizterzésekrol [Act CVIII of 2011 on Public Procurement]," 2011, <http://.2it.ly/1tibXgX>

<sup>4</sup> "Act CXVI of 2013 on the Amendments of the Act CVIII Of Year 2011 on Public Procurement Procedures [2013. Évi CXVI. Törvény a Közbizterzésekrol Szólo 2011. Évi CVIII. Törvény Módosításáról]," 2013, <http://.2it.ly/1yHmzvA>

<sup>5</sup> "Kivele," Átlátható Állam, [Hungarian] <http://www.atlathatoallam.hu/kivele/>; "OMG! – Egyre Pocsékabbak a Minisztériumi Honlapok," Blog, EGov Hírlevél, 6 August 2010, [Hungarian] <http://.2it.ly/1CTRvYU>; Transparency International Hungary, *Hungarian State-owned Enterprises: Their Transparency, Integrity and Compliance with Disclosure Requirements* by Ágnes Makó, István János Tóth, et al. (Report, Budapest, March 2014), <http://.2it.ly/15IfnES>

<sup>6</sup> "2011. Évi CVIII. törvény a közbizterzésekrol [Act CVIII of 2011 on Public Procurement]," 2011, <http://.2it.ly/1tibXgX>

<sup>7</sup> European Commission, *Recommendation for a Council Recommendation on Hungary's 2014 National Reform Programme and Delivering a Council Opinion on Hungary's 2014 Convergence Programme* by the Council of the European Union (Report, Brussels, 2 June 2014), <http://.2it.ly/1yHnhsU>; K-Monitor, *Transparency and Accountability in Public Procurements: The Case of Visegrad Countries* (Final report, April 2012), <http://.2it.ly/1tdATeR>; Transparency International Hungary, *Állásfoglalása a Közbizterzésekrol Szólo T/3502. Számú Törvényjavaslatról [Statement on the Act of Public Procurements Proposal T/3502]* (Statement, 21 June 2011), <http://.2it.ly/1tdB7m9>

<sup>8</sup> K-Monitor, *Transparency and Accountability in Public Procurements: The Case of Visegrad Countries* (Final report, April 2012), <http://.2it.ly/1tdATeR>

<sup>9</sup> "Act CXVI of 2013 on the Amendments of the Act CVIII Of Year 2011 on Public Procurement Procedures [2013. évi CXVI. törvény a közbizterzésekrol szólo 2011. évi CVIII. törvény módosításáról]," 2013, <http://.2it.ly/1yHmzvA>

<sup>10</sup> European Commission, *Annex Hungary to the EU Anti-Corruption Report* by the Council of the European Union (Annex, Brussels, 3 February 2014), <http://.2it.ly/1JlIN3b>

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<sup>11</sup> “Commentary on the 2012 Amendments of the 2011 Public Procurement Act,” Transparency International Hungary, [Hungarian] <http://.2it.ly/1ElVCkF>

<sup>12</sup> Jogkódex, 2013. “Évi V. Törvény a Polgári Törvénykönyvről [Act V of 2013 on the Civil Code of Hungary],” Government of Hungary, 15 March 2014, <http://.2it.ly/1ElVXnr>

<sup>13</sup> “Act CLXXXIX. of 2011 on the Local Governments of Hungary [2011. Évi CLXXXIX. Törvény Magyarország Helyi Önkormányzatairól],” <http://.2it.ly/1GVEYKZ>

<sup>14</sup> Transparency International Hungary, *OGP Észrevételek [Commentary on the OGP Commitments]*, 2013, <http://.2it.ly/15ynN0y>

#### 4: Integrity control system in the public sector

Hungary undertakes:

- to ensure the participation of public sector organizations and state-owned business companies in the Integrity Survey of the State Audit Office.
- to introduce an integrity control system into the central public administration.
- to create the institutional system for the protection of whistleblowers.
- to determine the rules of keeping contact between state organs and interest representation groups.
- to ensure the pre-decision analysis of corruption risks of motions to be discussed by the Government and draft ministerial decrees, within the framework of a preliminary impact assessment.
- to prepare Codes of Professional Conduct for government officials and law and order personnel in a form approved by competent public corporations independent from the Government.<sup>1</sup>

Commitment Description						
Answerability	Lead institution	Ministry of Public Administration and Justice				
	Supporting institutions	State Audit Office				
		National University of Public Service				
		Hungarian Chamber of Government Officials				
National Development Agency						
Office of Public Administration and Justice						
Specificity and measurability	Point of contact specified?	No				
	4.1 Extended integrity survey		Medium (Commitment language describes an activity that is objectively verifiable, but does not contain specific milestones or deliverables)			
	4.2 Launch of integrity control system		Medium			
	4.3 Protection of whistleblowers		Low (Commitment language describes activity that can be construed as measurable with some interpretation on the part of the reader)			
	4.4 Lobby regulation		Low			
	4.5 Corruption risk assessment module		Low			
	4.6 Codes of ethics for government officials and law and order personnel		Medium			
Relevance	OGP grand challenges	Increasing public integrity, More effectively managing public resources				
	OGP values					
	Milestone	Access to Information	Civic Participation	Public Accounta	Tech & Innovation	Uncle ar

				bility	for Trans. & Acc.	
	4.1 Integrity survey			✓		
	4.2 Integrity control system			✓		
	4.3 Whistleblower protection			✓		
	4.4 Lobby regulation		✓	✓		
	4.5 Corruption risk assessment module			✓		
	4.6 Code of ethics			✓		
Ambition						
Milestone	New vs. pre-existing		Potential impact			
4.1 Integrity survey	Pre-existing		Minor: An incremental but positive step in the relevant policy area.			
4.2 Integrity control system	Pre-existing		Minor			
4.3 Whistleblower protection	Pre-existing		Minor			
4.4 Lobby regulation	Pre-existing		Minor			
4.5 Corruption risk assessment module	Pre-existing		Minor			
4.6 Code of ethics	Pre-existing		Minor			
Level of completion						
4.1 Extended integrity survey						
Start date: 02-05-2013			End date: 31-05-2013			
Projected completion	Substantial		Actual completion	Substantial		
4.2 Integrity control system						
Start date: 25-02-2013			End date: 31-12-2013			
Projected completion	Substantial		Actual completion	Substantial		
4.3 Protection of whistleblowers						
Start date: 25-02-2013			End date: 01-01-2014 (original: 30-06-2013)			
Projected completion	Not started		Actual completion	Complete		
4.4 Lobby regulation						
Start date: 25-02-2013			End date: original: 30-06-2013			
Projected completion	Complete		Actual completion	Complete		
4.5 Corruption risk assessment module						
Start date: 25-02-2013			End date: Continuous			
Projected completion	Limited		Actual completion	Limited		
4.6 Code of ethics						

<b>Start date:</b> 25-02-2013		<b>End date:</b> 31-07-2013	
<b>Projected completion</b>	Complete	<b>Actual completion</b>	Complete
<b>Next steps</b>			
<b>4.1 Integrity survey</b>	Further steps required in the next action plan.		
<b>4.2 Integrity control system</b>	Further steps required in the next action plan.		
<b>4.3 Whistleblower protection</b>	Further steps required in the next action plan.		
<b>4.4 Lobby regulation</b>	Further steps required in the next action plan.		
<b>4.5 Corruption risk assessment module</b>	Further steps required in the next action plan.		
<b>4.6 Code of ethics</b>	Further steps required in the next action plan.		

#### What happened?

This cluster of commitments aimed at putting in place a number of reforms that would help reduce corruption in the public sector. All of these measures were pre-existing actions planned in the Program on Preventing Corruption. They were incorporated into the OGP action plan following recommendations made by the intra-governmental Coordination WG, which was engaged mostly with the implementation of the anticorruption program, during the intra-governmental consultation period (September - December 2012).

Each of these commitments revolves around improving integrity in government agencies (both central and sub-national). The degree to which these fulfill the expectations of “open government”—as opposed to solely anticorruption—is open to some debate. On the one hand, many of the commitments examine information disclosure and other elements of open government as part of their evaluation, although, in many cases this is one of several aspects of public integrity. On the other hand, many of the commitments lack the direct interface with the public, which is the hallmark of open government.

All of them but one have been completed in 2013, the year of implementing the OGP action plan.

#### *Integrity Survey*

The SAO launched the third wave of the Integrity Survey in 2013. The number of public authorities responding to the call and filling the online questionnaire on a voluntary basis is in steady increase (1,001 in 2012, 1,462 public entities in 2013, and 1,584 in 2014). While the quality of the survey improves as evident through decreasing nonresponse and more details in open narrative questions, the coverage among public entities is still not complete (e.g., there are no state-owned enterprises among the responding parties).<sup>2</sup>

#### *Integrity Control System (ICS)*

The integrity management system was officially introduced to the Hungarian public administration in February 2013.<sup>3</sup> The National University of Public Service was in charge of educating official integrity advisors. The main responsibility of those advisors is to ensure the smooth introduction of the integrity management system and to support the development of a work-ethics-based organizational culture.<sup>4</sup>

The university launched a postgraduate course in integrity management in 2013. By May 2014, approximately 120 participants graduated as qualified integrity advisors.<sup>5</sup>

#### *Whistleblower Act*

The new Whistleblower Act was adopted in October 2013 and took effect in January 2014.<sup>6</sup> This new regulation aimed at strengthening the protection of whistleblowers primarily by introducing a system of electronic reporting. The reporting system provides the opportunity to hire lawyers engaged with the protection of whistleblowers and it also follows a standard procedure of handling complaints and public interest disclosures. The Act enshrines the principle of non-anonymous reports, i.e. the reporter should provide his/ her name while blowing the whistle – except in cases when the whistle-blowing report is made related to a private employer. In this case, however the employer is not obliged to carry out an internal investigation.

One of the official reasons for drafting a new act was the failure of the previous regulation to enforce effective protection. Due to lack of anonymity this risk is not minimized in the new regime. In addition, despite the original plans the government has not established (or called for establishment of) an independent public authority in charge of effectively protecting whistleblowers.<sup>7</sup>

#### *Lobbying Law*

The first law on lobbying in Hungary was enacted in 2006. Later in 2010, the law was repealed, due to its failure to enforce lawful lobbying practices.<sup>8</sup> A new bill on lobbying was passed to the Parliament in 2010, but it was not adopted. Several rounds of public consultations and discussions followed and a government decree was adopted in 2013 (Government Decree 50/2013, II.25.)<sup>9</sup> This regulation is very brief, postulating the rules of keeping contact with interest organizations only in a few passages.

#### *Corruption Risk Assessment Module*

The Hungarian Government has been working on updating the regulatory impact assessment system since 2010. The preparation of a "corruption risks assessment sheet" has already been started ahead of the launch of the OGP national action plan. Based on the IRM researcher's interview with the government representative, finalization of the corruption risk assessment module is underway.

#### *Code of Ethics*

In July 2013, the Code of Ethics for Government Officials and for the Law Enforcement Personnel were finalized.<sup>10</sup>

Notably, some of the end dates in this cluster were modified and postponed during the implementation phase.

#### **Did it matter?**

According to international surveys, almost all (96%) respondents from Hungary think that corruption is a widespread problem in the country. The European average is 76%. At least 86% of Hungarians believe that there is corruption in local, regional, or national institutions. This ranks Hungary in the low to mid range in the EU.<sup>11</sup> Results of the Flash 2013 Eurobarometer Business Survey on corruption suggest that 81% of the Hungarian business respondents consider that favoritism and corruption limit business competition. The EU average is 73%. Fifty-nine percent answered with yes to the question of whether corruption is a problem for their own company in usual business operations. Forty-three percent feel the same in the EU, on average.<sup>12</sup> In the National Integrity Survey run among public officials in 2014, respondents claimed that corruption was most prevalent in the areas of public procurement (4.11 points out of 5) and of state investment (4.10 points).<sup>13</sup>

The commitments in this cluster should be understood in terms of a number of recent steps taken by the government to address the issue of corruption. While many of them were already underway, OGP may have added another level of accountability and



visibility to their implementation. Still, the real challenge for the government is the effective enforcement of this set of new rules and practices; otherwise, the next action plan may start with the revision of the recently updated rules.

#### *Integrity Survey and Integrity Control System*

The establishment of the integrity management and control systems in the public sector started prior to the OGP action plan. In 2009, the SAO launched the Integrity Project: Mapping Corruption Risks, Strengthening Integrity Based Administrative Culture (IP) after having participated in a project in partnership with the Dutch Court of Audit. For the aims and results of this project, see the section on “National Context.”

After the official closure of the IP in March 2012, the Government decided to strengthen the IP's results by launching the Corruption Prevention Program (CPP). This initiative specified additional measures and allocated specific funds of the State Reform Operative Program (SROP), a government development program co-financed by the European Regional Development Fund. The MPJA engaged the National University of Public Service as a consortium partner in charge of implementing the CPP.

Based on the Corruption Prevention Program, the Government's original aim was to commit itself to “take more definite measures against every kind of corruption”.<sup>14</sup>

#### *Whistleblower Protection*

The previous Whistleblower Act from 2009 was aimed at improving the legal background of whistleblower protection and at setting the ground for a whistleblower protection agency.

According to nongovernmental sources interviewed, the enforcement of the act was weak and potential whistleblowers effectively could not rely on any protection. The independent public authority was still not in operation by 2013, and the lack of an operative agency was a significant challenge to any whistleblower activity. (See the concerns articulated by CSOs such as Transparency International, K-Monitor, and the Hungarian Civil Liberties Union.<sup>15</sup>)

In the stakeholder survey disseminated by the IRM researcher, regarding the ex-regulatory framework, respondents also pointed to the lack of complementary provisions in the Act on Public Officials<sup>16</sup> and in the new Labor Code adopted in 2011.<sup>17</sup>

The new act received very little positive feedback. CSOs acknowledge the benefit of the online reporting system, but question how far the system can really keep whistleblowers anonymity. In their opinion, the act does still not fill the institutional gap because it does not establish an independent authority responsible exclusively for whistleblower cases and effective protection of whistleblowers. Most CSO experts in this field question the Government's argument that the scope of the Commissioner's authority over fundamental rights was extended. They claim that the Commissioner's competences have not changed substantially. Last, but not least, they argue that the new regulation also lacks procedural rules to sanction effectively mistreatment of and wrong-doing to whistleblowers. All in all, the CSOs are concerned more than ever about the sufficient protection of whistleblowers, which would be one of the most important actions of a government program fighting corruption.<sup>18</sup>

#### *Lobbying Law*

According to the official government reasoning, the first Hungarian Lobbying Act (2006) was not effective in monitoring and controlling lobbying activities.<sup>19</sup> Based on statistics published by the MPJA, on average 30 lobby events were reported officially every three months.<sup>20</sup> This is likely a significant undercounting of the actual number of lobbying visits taking place. This likely undercounting justified revision of the previous regulation.

Both civil society and businesses are critical about the viability and effectiveness of the new regulation. According to their assessments, the provisions in the act still do not shed light on lobby activities and do not help civil organizations monitor any meeting between the government representatives and interest groups in a systematic way.<sup>21</sup> CSOs still urge the establishment of an independent authority enforcing the regulations on lobbying and the development of effective sanctioning mechanisms, not only of the lobbyists but also of the involved business, civil and government representatives. A database of lobbyists should be reintroduced and coupled with the appropriate disclosure obligations, while avoiding the imposition of too much administrative burden.<sup>22</sup> In what follows, CSOs' basic argument is that the recent regulation does not facilitate open government in an effective way and that this is its primary limitation.

At the time of joining the OGP, there was basically no legal framework regulating lobby activities. Therefore, this commitment was an important milestone in making lobby events more transparent. In the IRM researcher's point of view, however, the recent provisions are too vague with respect to sharing information on lobbying-like events, and publication obligations are not clearly defined. At the same time, the law includes provisions, which are often difficult to comply with: it is unrealistic to prescribe ex ante approval of meetings with a lobbyist by higher-level officials.

#### *Corruption Risk Assessment Module*

The corruption risk assessment module and the methodology of completing it should be detailed enough to cover all aspects to the necessary extent of the corruption risk related to government motions. Enforcement of the correct completion of the module would be crucial. Trainings most probably would help the responsible government representatives fill in the module in an adequate and meaningful way.

#### *Code of Conduct*

A code of conduct for government representatives has been on the public agenda since the early 1990s. Although the Act on the Legal Status of Public Officials (XXIII/1992) contained provisions on the ethical standards and values public officials should consider in their daily business, the provisions were too general and lacked specific details.<sup>23</sup> By mid-1990s, the Ministry of Interior prepared a plan for a new Professional Code of Conduct. However, this plan lacked specific guidance on the professional procedures of government officials and was never transformed into any national law. In 2009, the Parliament confirmed the government resolution specifying the ethical requirements for public officials. The resolution obliged public authorities to create their own ethical code, but enforcement was lacking. CSOs were proactive in providing recommendations to the government on ethical issues.<sup>24</sup> Based on earlier government materials and on nongovernmental recommendations, the MPAJ had already started drafting the Green Paper on codes of conduct before the approval of the national action plan. The draft version was consulted with the Secretary of the Preparatory Committee of the Hungarian Chamber of Government Officials.

#### **Moving forward**

Answers received from stakeholders in the IRM researcher's survey suggest that the following government actions would be necessary to make the current commitments more effective and to guarantee better compliance across the public administration:

1. Enforce the participation of state-owned enterprises that opt out of the SAO's integrity survey by introducing positive incentives and/or sanctions in cases of noncompliance.
2. Improve access to the results of the agency-level integrity surveys by publishing the database of the integrity surveys in line with open data standards and

- benchmarking the performance of similar government agencies (local governments, central and decentralized government agencies, etc.).
3. Put more emphasis on the effective protection of whistleblowers:
    - Enforce the institutional background of the whistleblower protection by setting up an independent institution or assigning these tasks explicitly to an existing government agency, which would be accountable for enforcing whistleblowers' rights and protection.
    - Guarantee the anonymity of the whistleblowers
    - Revise the legislation concerning the obligation to notify the targets of whistleblower actions (the person accused of wrong-doing) because it jeopardizes the success of the process.
  4. Improve the quality and the effectiveness of the legal framework on lobbying:
    - The scope of regulation on contact between state organs and interest representation groups should be more detailed and should involve positive incentives on publication and monitoring (i.e., enhancing the enforcement of the legal obligations of reporting lobby events). The statutory provisions could be complemented with practical guidelines or handbooks, which could be more helpful in the daily operations.
    - Re-establish the database for lobbying events.
    - Widen the scope of sanctioning mechanisms to business, government, and civil actors involved in lobbying events.
  5. Provide more practical guidance on "exemplary" behavior in addition to the Codes of Ethics, for example, by providing and elaborating online learning materials (such as guidelines and handbooks) with real-life examples.
  6. Ensure that corruption risk assessments actually are attached to preliminary impact assessments, revisiting the commitment if fulfillment is not possible, and enforce the publication of the results of the assessments (see Regular Publication of Regulatory Impact Assessments, Methodological Notes, etc.).
  7. Ensure persons assigned as integrity officers, data protection officers, and equal opportunities officers should be completely independent of the organization for which they work. The protection of these persons should be legally defined and enforced in practice as well.

In the IRM researcher's point of view, the commitments in this cluster altogether could bring about significant changes in the quality of the regulatory framework provided that effective enforcement mechanisms (i.e., use of an appropriate incentive scheme and capacity building in control agencies) are applied. Capacity building would be of key importance in the case of the SAO and the Office of the Commissioner for Fundamental Rights.

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<sup>1</sup> Hungarian Government OGP Portal, *Annex 1 for Government Decision 1080/2013 (25 February) on the Approval of the Action Plan on Hungary's Commitments to Be Made in the Framework of the Open Government Partnership International Initiative* by the Government of Hungary (Report, 25 February 2013), Commitment 4, <http://.2it.ly/1wx3tTF>

<sup>2</sup> State Audit Office of Hungary, *Study on the Results of the 2013 Integrity Survey* by the State Audit Office of Hungary (Summary, 13 December 2013), <http://.2it.ly/1tec4PM>

<sup>3</sup> "50/2013. (II. 25.) Az Államigazgatási Szervek Integritásirányítási Rendszeréről És Az Érdekérvényesítők Fogadásának Rendjéről Korm.rendelet [Government Decree No. 50/2013. (II. 25.) on the Integrity Management System of Organs of Public Administration and on the Procedural Rules Applicable to Dealing with Lobbyists]," 2013, [Hungarian] <http://.2it.ly/15B6yvU>

<sup>4</sup> "Integrity Officer Postgraduate Program," Hungarian Corruption Prevention Program, [Hungarian] <http://.2it.ly/1tecyFE>

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- <sup>5</sup> “A Kormány Korrupcióellenes Intézkedései [Hungary’s Measures in the Field of Corruption Prevention],” Hungarian Corruption Prevention Program, <http://.2it.ly/1uOjTwT>
- <sup>6</sup> “2013. Évi CLXV. Törvény. a Panaszokról És a Közérdekű Bejelentésekről [Act CLXV of 2013 on Complaints and Public Interest Disclosures],” 2013, <http://.2it.ly/1C3LtbA>
- <sup>7</sup> “2009. Évi CLXIII. Törvény A Tisztességes Eljárás Védelméről, Valamint Az Ezzel Összefüggő Törvénymódosításokról [Act CLXIII of 2009, on the Protection of Fair Procedures Act on the Protection of Fair Procedures],” <http://.2it.ly/1xVWxB1>
- <sup>8</sup> European Commission, *Annex Hungary to the EU Anti-Corruption Report* by the Commission to the Council and the European Parliament (Annex, Brussels, 3 February 2014), <http://.2it.ly/1JlIN3b>
- <sup>9</sup> “50/2013. (II. 25.) Korm. Rendelet Az Államigazgatási Szervek Integritásirányítási Rendszeréről És Az Érdekérvényesítők Fogadásának Rendjéről [Government Decree No. 50/2013. (II. 25.) on the Integrity Management System of Organs of Public Administration and on the Procedural Rules Applicable to Dealing with Lobbyists],” <http://.2it.ly/15B6yvU>; Ministry of Public Administration, *Statistics on the Reported Lobby Events between 2006 and 2010*, <http://.2it.ly/1yiQPIr>
- <sup>10</sup> Hungarian Corruption Prevention Program, “Codes of Conduct,” Hungarian Government OGP Portal, 30 July 2013, <http://.2it.ly/1GVMZQ5>
- <sup>11</sup> *Special Eurobarometer 374 Corruption* by TNS Opinion & Social, 2012 (Report, February 2012) [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_374\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_374_en.pdf)
- <sup>12</sup> European Commission, *Flash Eurobarometer 374, Businesses’ attitudes towards corruption in the EU Corruption* by TNS Opinion & Social (Report, February 2014), [http://ec.europa.eu/public\\_opinion/flash/fl\\_374\\_en.pdf](http://ec.europa.eu/public_opinion/flash/fl_374_en.pdf)
- <sup>13</sup> Hungarian State Audit Office, *Integritás És Korrupció [Integrity and Corruption]* (Report, Budapest, March 2012), 63, [Hungarian] <http://.2it.ly/1BqBDxn>
- <sup>14</sup> “Corruption Prevention Programme, 2012” Hungarian Corruption Prevention Program, p.1. <http://.2it.ly/1L9ozl>
- <sup>15</sup> Martin József Péter, Executive Director of Transparency International Hungary, letter to the Hungarian President János Áder on the new Whistleblower Law, 16 October 2013, <http://.2it.ly/1yiSU75>; K-Monitor, *Jobban Teljesít? A K-Monitor Elemzése a 2010–2014 Es Kormányzati Ciklus Korrupcióval Kapcsolatos Intézkedéseiről [Are We Doing Any Better? Analysis of the Corruption-Related Measures of the Parliamentary Cycle 2010-2014]*, 2014, <http://.2it.ly/1tefnqe>; “A K-Monitor És A TASZ Álláspontja A Közérdekű Bejelentésekről Szóló Törvény Tervezetéhez [Suggestions of the K-Monitor and the HCLU for the Whistleblower Protection Act Proposal],” K-Monitor, 16 May 2013, <http://.2it.ly/1L9pIJP>; “Az Informátor Védelme,” *Tasz*, 17 May 2013, <http://.2it.ly/1GVRTfj>
- <sup>16</sup> “2011. évi CXCI. Törvény a Közzszolgálati Tisztviselőről [Act CXCI. of 2011 on Public Officials],” <http://.2it.ly/1yHRc47>
- <sup>17</sup> “2012. Évi I. Törvény a Munka Törvénykönyvéről [Act I of 2012 on the Labor Code],” <http://.2it.ly/1BbUhGO>
- <sup>18</sup> Martin József Péter, Executive Director of Transparency International Hungary, letter to the Hungarian President János Áder on the new Whistleblower Law, 16 October 2013, <http://.2it.ly/1yiSU75>; Fekete-Györ Ákos, “Januárban Hatályba Lép Az Új Whistleblowing Törvény [The New Whistleblower Act Takes Effect in January],” *Blog, Twobirds Ideas Hungary*, 13 December 2013, <http://.2it.ly/1zLzO09>; Ligeti Miklós, “Fából Vaskarika,” *Komment.hu portal*, 20 December 2013, <http://.2it.ly/1yiVfOX>; Jogi Kisokos, “Perlavinát Indíthat a Bejelentővédelmi Törvény [The Whistleblower Act May Give A Jumpstart to the Number of Lawsuits], *Piac és Profit*, 14 November 2013, <http://.2it.ly/1JKAKSo>
- <sup>19</sup> “Lobbizás Keretek Között [Lobbying Play by the Rules],” *Blog, K-Monitor*, 26 February 2014, <http://.2it.ly/1yiWNsP>
- <sup>20</sup> “Statistics on the Reported Lobbying Events between 2006 and 2010,” Ministry of Public Administration, <http://.2it.ly/1yiQPIr>
- <sup>21</sup> “Lobbizás Keretek Között [Lobbying Play by the Rules],” *Blog, K-Monitor*, 26 February 2014, <http://.2it.ly/1yiWNsP>
- <sup>22</sup> “Lobbizás Keretek Között [Lobbying Play by the Rules],” *Blog, K-Monitor*, 26 February 2014, <http://.2it.ly/1yiWNsP>

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<sup>23</sup> Act XXIII of 1992 on the Legal status of public officials [*1992. évi XXIII. Törvény a köztisztviselők jogállásáról*]

<http://www.complex.hu/kzldat/t9200023.htm/t9200023.htm>

<sup>24</sup> Transparency International Hungary, *Ajánlások a Közzsféra Etikai Magatartásszabályainak Kimunkálásához* [*Recommendations for the Development of the Code of Ethics in the Public Sector*]

by Bencsik András, Csefkó Ferenc, Fábian Adrián et al. (Report, Budapest, 2012),  
<http://.2it.ly/1yiXen0>

## 5: Dissemination of information on anti-corruption and integrity

Hungary undertakes

- to provide training for public officials in the topics of integrity, anti-corruption and ethics
- to provide, within the training system of state organs, training elements for public administration, local government and judicial sector workers on the freedom of information which also give a clear guideline for the independent, proactive disclosure of data of public interest
- to launch a credible, transparent, cost-efficient awareness raising campaign which builds on the involvement of citizens and NGOs and provides information differentiated by target groups, in order to increase the knowledge and consciousness of members of society about corruption phenomena as well as the attitudes and counter-measures that may be applied against them
- to ensure that the values and knowledge relating to corruption phenomena as well as the attitudes and counter-measures that may be applied against them are incorporated in school education, including the revision of course books in this topic and amplifying them with anti-corruption information.

Commitment Description						
Answerability	Lead institution	Ministry of Public Administration and Justice				
	Supporting institutions	National University of Public Service				
	Point of contact specified?	No				
Specificity and measurability		5.1 Trainings for public officials	Low (Commitment language describes activity that can be construed as measurable with some interpretation on the part of the reader)			
		5.2 Freedom of information training	Low			
		5.3 Awareness-raising campaigns	Low			
		5.4 Revision of the National Curriculum	Medium			
Relevance	OGP grand challenges	Increasing public integrity Improving public services				
	OGP values					
	Milestone	Access to Information	Civic Participation	Public Accountability	Tech & Innovation for Trans. & Acc.	Unclear
	5.1 Trainings for public officials			✓		
	5.2 Freedom of information training	✓				
	5.3 Awareness-	✓				

	raising campaigns					
	5.4 the National Curriculum	✓				
Ambition						
Milestone	New vs. pre-existing		Potential impact			
5.1 Trainings for public officials	Pre-existing		Minor: An incremental but positive step in the relevant policy area.			
5.2 Freedom of information training	New		Minor			
5.3 Awareness-raising campaigns	New		Minor			
5.4 the National Curriculum	New		Minor			
Level of completion						
5.1 Trainings for public officials						
Start date: 25-02-2013 (01-12-2013)			End date: continuous			
Projected completion	Complete		Actual completion	Complete		
5.2 Freedom of information training						
Start date: 01-12-13			End date: 30-06-2014 (original: 31-12-2012)			
Projected completion	Limited		Actual completion	Limited		
5.3 Awareness raising campaigns						
Start date: 25-02-2013			End date: 30-04-2013			
Projected completion	Limited		Actual completion	Limited		
5.4 Revision of the National Curriculum						
Start date: 25-02-2013			End date: 01-09-2013			
Projected completion	Complete		Actual completion	Complete		
Next steps						
5.1 Trainings for public officials		Further steps required in the next action plan				
5.2 Freedom of information training		Further steps required in next action plan				
5.3 Awareness-raising campaigns		Further steps required in next action plan				
5.4 Revision of the National Curriculum		No further steps required in the next action plan				

**What happened?**

On the whole, these commitments had very mixed implementation. As a group, they aimed to raise awareness and disseminate information on the importance of public integrity and on the relevance of anticorruption-related government measures.

In effect, the Government's ambitions were too high. Implementation of two actions is still in progress. This is puzzling because the actions are the least complicated of the action plan, and the government missed a chance to shape public agenda.

*Trainings for Public Officials*

The National University of Public Service was in charge of training public officials on integrity and educating integrity advisors. Following pilot rounds in 2011-2012, trainings on integrity control and ethics were launched in the public administration at the central government level. The Government's aim was to reach out to 720 high-level public officials and 8,550 civil servants with these trainings.

According to a Government contact, by June 2014, 3,500 public officials participated in trainings. Mini-trainings on ethics and integrity in public service were provided for government officers, while integrity-management trainings were offered for government officers in higher positions.

Some CSO representatives were invited to one pilot training session. The government online source, however, is not clear about which CSOs were invited. No information is shared about their feedback and potential recommendations (whether there was any change in the training syllabus based upon CSO feedback).<sup>1</sup>

#### *Freedom of Information Training*

Based on an interview with a Government contact, the draft curriculum on the freedom of information trainings is still in progress.

In the Government's self-assessment report published during the revision period of this monitoring report, the Government states that the National University of Public Service prepared the draft curriculum in partnership with experts of the National Authority for Data Protection and Freedom of Information and that "the trainings will be conducted later."<sup>2</sup>

#### *Awareness-raising Training*

The action on awareness-raising campaign was part of the CPP. According to official government sources, work plans of this measure are being revised constantly.

#### *Revision of the National Curriculum*

The National Core Curriculum already covers corruption issues by explaining the phenomena and the social and economic drawbacks of corrupted behavior, in both the public and the private sector. Pursuant to Government Decree 110/2012, VI.4<sup>3</sup> on the publication, introduction, and application of the National Core Curriculum, and in compliance with the MPAJ's recommendations, ethics courses to students in 9<sup>th</sup> through 12<sup>th</sup> grades incorporate the issues of community and social corruption. This content is elaborated further by the framework curricula for grades 5 through 8 and 9 through 12. The new National Core Curriculum came into force on 1 September 2013. It guarantees that all elementary and secondary school students are exposed to these issues. Before the OGP action plan was accepted, the national curricula did not prescribe specifically that schools cover the topic of corruption and anticorruption measures.

#### **Did it matter?**

Three of the above measures already were part of the corruption prevention government program.

The main goals of the integrity trainings are to change administrative culture, to change officials' attitude, and to help incorporate an integrity-based approach in Hungarian public administration. The ambition is big, but it is difficult at this point in time to assess the impacts, if any, because impacts would not be apparent until significantly later.

The national-level stakeholders interviewed by the IRM researcher welcomed all of the planned measures, but missed regular communication on the mid-term results. By the time of reporting, the Government still has not published any monitoring information or statistics on the number of participants in the freedom of information trainings or the approximate number of pupils involved in discussions on corruption.



### Moving forward

Whereas the CSOs suggested the organization of integrity trainings for local government and state-owned enterprise employees, the MPAJ called for trainings only in the case of public officials of public institutions at the central level. These recommendations and execution of a well-targeted awareness-raising campaign are still valid and can only be reiterated. Such a campaign would have a clear schedule and would explain the main target groups of the. It would be useful, for example, to the target beneficiaries of the completed measures (see, public schools, civil servants at local governments, or private companies involved in public procurements).

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<sup>1</sup> “Trainings Provided for Public Officials,” The Hungarian Government’s Corruption Prevention Portal, [Hungarian] <http://.2it.ly/1zLDwXy>

<sup>2</sup> Open Government Partnership, *Open Government Partnership National Action Plan 2013-2014 Self-Evaluation Report* by the Hungarian Government (Report, October 2014), 21, <http://.2it.ly/1JpRDDD>

<sup>3</sup> Government decree 110/2012 on the issuing, introduction and implementation of the National Core Curriculum [110/2012. (VI. 4.) Korm. Rendelet a Nemzeti alaptanterv kiadásáról, bevezetéséről és alkalmazásáról]  
[http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=A1200110.KOR](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1200110.KOR)

## V. Process: Self-Assessment

In this section, we first check the government obligations with regard to the self-assessment report, as prescribed by the standard OGP rules. Second, we give a short assessment of the reporting process and the quality of the report.

### V.1: Self-assessment checklist

Was the annual progress report published?	No
Was it done according to schedule? (Due 30 Sept. for most governments, 30 March for Cohort 1.)	No
Is the report available in the administrative language(s)?	Yes
Is the report available in English?	Yes
Did the government provide a two-week public comment period on draft self-assessment reports?	Yes
Were any public comments received?	Unsure
Is the report deposited in the OGP portal?	No
Did the self-assessment report include review of consultation efforts during action plan development?	Yes
Did the self-assessment report include review of consultation efforts during action plan implementation?	Yes
Did the self-assessment report include a description of the public comment period during the development of the self-assessment?	No
Did the report cover all of the commitments?	Yes
Did it assess completion of each commitment according to the timeline and milestones in the action plan?	No
Did the report respond to the IRM key recommendations (2015+ only)?	-

Note: The information above is current as of October 2014.

### Summary of Additional Information

The Hungarian Government published its self-assessment report on 17 October 2014, with a slight delay from the original deadline of 30 September. The government announced a two-week long public consultation period and asked for comments and suggestions via e-mail by the end of October. The self-assessment report claims that a summary is available on the governmental portal, but the IRM researcher could not locate it.

The report follows the formal guidance of the OGP and discusses all the required aspects of the OGP implementation process. It is available both in Hungarian and in English. It also describes the outcomes and results of each commitment.

All in all, the content of the report is accurate but very minimalistic. It does not go into details on the following:

- The strategic choices beyond the OGP action plan (e.g., the highly limited scope of the national commitments or the strong anticorruption bias), or
- Events and changes in the national context highly relevant to the core OGP issues (e.g., the exit of high-profile CSOs from the OGP WG, the national scandals related to the anticorruption NGO network, the travel ban imposed by the U.S. on Hungarian citizens and, allegedly, among them high-level government officials).

It does not provide exhaustive explanations for why progress on some commitments was limited, what challenges the implementation faced, or lessons for the next period.

In the IRM researcher's point of view, the publication of the self-assessment report was a moment to confirm the political ownership of the OGP action plan and to signal to the broader public that, despite some implementation deficits, OGP membership is taken seriously in Hungary. In addition, the public consultation process could have been improved, for example, by launching an online, interactive platform where CSOs, businesses, and common citizens could have shared their opinions. Here the Government's responses and core ideas of open government could have been discussed publicly, thereby potentially influencing the public agenda. While this moment was effectively missed, the options above can be kept in mind during the drafting phase of the next action plan.

## VI. Country Context

This section places the action plan commitments in the broader national context. It begins by giving the big picture about the assessments on Hungary's public government and the national context in general, before discussing relevant government reform steps and actions during the action plan drafting and implementation period.

### Country context

#### *Overall Assessment*

When viewed from an international perspective, Hungary's performance in terms of government efficiency, freedom of information, freedom of association, transparency and corruption shows a deteriorating trend in the last decade.

Based on the perceptions of various national stakeholders, the Worldwide Governance Indicators of the World Bank show that Hungary's Government Effectiveness score has declined in the past ten years. In 2003, Hungary's was in the 80<sup>th</sup> percentile, and in 2013 it was 70.33 percent. For the indicator for "Voice and Accountability," measuring the perception of the degree of freedom of association, free media, freedom of expression and citizens' ability of participating in selecting their government, Hungary scored in the 87<sup>th</sup> percentile in 2003, while it was only in the 70<sup>th</sup> percentile in 2013. The indicator measuring political stability and absence of violence shows a similar deterioration. The results for the indicator "Control of Corruption" followed a similar trend. In 2003, Hungary was at the 74.15<sup>th</sup> percentile, but in 2013, Hungary was at the 64.59<sup>th</sup> percentile). Consequently, after starting out as a regional leader in the 1990s-2000s, the country now lags behind most of its regional peers, except for Romania and Bulgaria.<sup>1</sup>

The OECD Trust in Government Index shows that Hungarians' trust in the national government is extremely low (25%) compared to the OECD average (40%), and that public confidence has been constantly decreasing in the last decade. It decreased by 4 percentage points between 2007 and 2012.<sup>2</sup>

Access to public sector information is generally perceived as very challenging. Most of the CSOs sharing their views in the stakeholder survey stressed that they usually feel a lack of trust on the part of the government agencies holding data or information requested. This lack of trust blocks collaborations and in effect results in a high administrative burden in case of public data requests.

Even if the regulatory framework sets clear obligations regarding the publication of government documents and information, due to a lack of regular monitoring or positive incentives, the compliance with those public disclosure rules is very limited. According to the recent study of the Corruption Centre Budapest, the overwhelming majority of Hungarian municipalities do not comply with the obligatory information disclosure rules. Their sample covered the websites of 368 Hungarian municipalities. The areas where public disclosure obligations are primarily ignored are public procurement, financial and budget information, and asset management.<sup>3</sup> Larger cities were law-abiding only to an average rate of 70%, while smaller towns to an even lesser degree (50%).<sup>4</sup> The websites of local governments typically lack panel meeting protocols, calls for offers, and procurement contracts.

Another study published in 2014 by Transparency International confirmed very similar practices among state-owned enterprises (SOEs). Out of the 66 SOEs included in the study, only 21 disclosed more than 50% of the legally prescribed information on their websites.<sup>5</sup> Those complying with requirements were mostly larger financial companies, whereas smaller ones in the agricultural sector performed considerably worse. An important finding of the research was that none of the companies complied with all the mandatory information obligations.

The Global Open Data Index assesses whether public data is released in a way that is accessible to citizens, the media, and civil society along 10 dimensions. Hungary ranked 42<sup>nd</sup> with a score of 415 out of 1000.<sup>6</sup>

The Open Budget Index, based on the method of the Open Budget Survey, first was calculated for Hungary in 2013. Hungary scored 40 (out of 100) – a score much lower than most of the countries in the Central and Eastern European region.<sup>7</sup>

Corruption is perceived to be one of the biggest problems in the country. At least 86% of Hungarians believe that there is corruption in local, regional, or national institutions, which places Hungary in the lower to mid range in the EU.<sup>8</sup> In Transparency International's Corruption Perception Index, Hungary scored in the low-mid range (54) and was ranked 47<sup>th</sup> out of 177 in 2013, falling behind most of its regional competitors.<sup>9</sup>

### *Legal Context*

Following the national elections in 2010, the winning coalition proclaimed fundamental state reforms of the country. Based on a supermajority (more than two-thirds) of the seats in the National Assembly, the ruling parties of the right-wing FIDESZ and the Christian-democratic KDNP launched the new legislation period with the codification of a new Fundamental Law (FL).<sup>10</sup> The new FL entered into force on 1 January 2012. It stipulates several principles that should guarantee that the country is an independent, democratic country governed by the rule of law.

The FL stipulates that the Hungarian Government should enforce the principle of transparent and balanced budget management<sup>11</sup> and use the latest technological solutions to improve transparency of public affairs and to promote equality of opportunity.<sup>12</sup> FL also stipulates that every organization managing public funds be obliged to account for its management of public funds to the general public.<sup>13</sup> The FL explicitly declares that public funds and national assets be managed according to the principles of transparency and elimination of corruption.<sup>14</sup>

The legislative road map of the new National Assembly was more than ambitious. We enumerate here in a chronological order only the legislative acts relevant to the policy areas covered by the national action plan:

- **2010:** The Act on Lobbying adopted in 2006 was repealed, and the plan was to draft a new regulation and replace the previous act. This failed. A new Law on the Protection of Whistleblowers entered into force in April.<sup>15</sup> It gave provisions on employees submitting information about violations of public interest. Another piece of legislation was drafted to establish the Public Interest Protection Office, a new government agency that was designed to provide effective support (e.g., reporting, investigating, analyzing, and advising), but this legislation did not enter into force in the following years. In this year, the new government also updated the 1988 Law on Lawmaking. One of the aims was to strengthen public consultation elements in lawmaking.<sup>16</sup>
- **2011:** A new Public Procurement Act (PPA) was enacted in July, following a comprehensive review of the previous regulations.<sup>17</sup> A new Law on Freedom of Information was drafted, and it contained provisions on the mandatory publication of public data (e.g., information on procurement, expenditure and contracts, etc.) and on managing freedom of information requests. This act also harmonized the national regulations pertaining to privacy with the 1995 EU Data Protection Directive (95/46/EC).<sup>18</sup>
- **2012:** A new Criminal Code (CC) with specific chapter on corruption crimes entered into force in July. The CC covers issues of corruption offences, such as simplified definitions of crimes, longer prescription terms, and active and passive trading in influence.<sup>19</sup> The new CC criminalizes budget fraud and

provides for new aggravating circumstances for a range of corruption-related offences.

- **2013:** The government decree on the system of integrity management within the public administration was issued in February. It contained provisions on how public servants should act in meetings with lobbyists. The government reopened the dossier of drafting a bill on whistleblowing.<sup>20</sup>

The Hungarian SAO launched the Integrity Project: Mapping Corruption Risks, Strengthening Integrity Based Administrative Culture (IP) in 2009 after having participated in a twinning project managed in partnership with the Dutch Court of Audit. The IP focused on corruption risk assessment practices and on the establishment of an integrity-based public administration framework. The aim of the project was to analyze corruption risks and initiate an integrity-based organizational culture in the Hungarian public administration. The project went through March 2012 and was co-financed by the European Social Fund. The measures launched within the project were related to audit methodologies such as risk assessment, trainings, and capacity buildings. Until February 2013, two Integrity Surveys had been carried out in a wider set of public sector organizations (covering both central and regional/local level government units).

In March 2012, the Hungarian Minister of Public Administration, the SAO, the President of the Supreme Court, and the Prosecutor General signed a common statement for taking joint action against corruption.<sup>21</sup>

Hungary launched the Public Administration Corruption Prevention Program (CPP) in 2012.<sup>22</sup> CPP is a two-year program financed by the SROP-1.1.21-2012-2012-0001 project with EUR 2.3 million. The CPP is part of the Magyar Program of 2011-2014, which was a comprehensive public administration reform program based on the technical support of the OECD Hungary partnership in the Public Administration Reform Program agreed upon in 2012.<sup>23</sup>

The CPP focuses mainly on the public administration. The limited attention paid to the business sector, to the general public, to party financing, and to insufficient law-enforcement gave rise to wider criticism among national CSOs, both during the public consultations and later during the implementation phase.<sup>24</sup> The CPP already has envisaged:

- The publication of a code of conduct for civil servants,
- Strengthening the regulatory and institutional framework of the protection of whistleblowers,
- Launching awareness-raising activities in the public spheres, and
- Integrating corruption-related matters into the national core curricula.<sup>25</sup>

CPP also explicitly called for the development of integrity-enhancing measures in the public administration and the elaboration of national OGP commitments.<sup>26</sup>

Along with anticorruption efforts, the government focused on the introduction of a new system of regulatory impact assessment (RIA). The first step was made in 2011. In order to enhance the effectiveness of new regulations, the new rules required public authorities to analyze the expected effects as well as associated risks of each governmental motion and ministerial decree before the Cabinet discusses and potentially adopts it. The MPAJ elaborated a package of methodological notes, handbook, and a standardized RIA template. In addition, this new regulation prescribes the preparation of an impact assessment for every bill with full public disclosure of the results of those assessments at the government central website.<sup>27</sup>

### *Institutional Context*

The MPAJ was in charge of the main policy areas relevant to the national action plan until mid-2014. Departments of the Ministry drafted and managed the CPP in cooperation with the National Defense Service, independent authority for the fight against crime and detection of crime, and the National University of Public Administration.

According to the 2011 Act on Freedom of Information, the National Authority for Data Protection and Freedom of Information (Nemzeti Adatvédelmi és Információszabadság Hatóság; NAIH) was established in 2012 as a new agency responsible for strengthening access to public data. The NAIH is responsible for supervising and defending the right to the protection of personal data and to freedom of information in Hungary.<sup>28</sup> The Authority's responsibilities extend to cover both the state and private sectors.<sup>29</sup> With the recommendation of the Prime Minister, the President of Hungary appoints the President of NAIH for nine years.<sup>30</sup> Currently Attila András Péterfalvi, the former ombudsman for data protection, is President of NAIH.

NAIH operates a public data search tool, "*közzadat kereső*," which is a platform to gather and display basic information on public authorities at both central and local level.<sup>31</sup> NAIH has the power to impose fines of up to HUF 10 million (about USD 40,000) in cases of FoI violations.<sup>32</sup>

According to the decision of the European Court in April 2014, the Hungarian state violated the law of the European Union when it abolished the institution of the data protection commissioner as the Fundamental Law entered into force on 1 January 2012. Every Member State of the EU is obliged to operate an independent data protection authority. To maintain independence, the organization responsible for data protection has a fixed period of mandate. Abolishing the authority, prematurely ended the term of András Jóri, who had been elected to this office for six years.<sup>33</sup>

The Central Investigating Chief Prosecutor's Office deals with priority corruption cases. Its scope of responsibilities was widened in 2011 to include investigating cases when a city or county government member, or an employee of a city, county, regional or national body of public administration in leading positions is suspected of having committed crimes of corruption.<sup>34</sup>

The SAO plays an important role especially in the implementation of integrity and anticorruption measures in the public administration. It is also in charge of monitoring and assessing the corruption-related risks emerging in the daily businesses of public institutions. The SAO also checks the compliance of public authorities and SOEs with FoI obligations.<sup>35</sup>

The Public Procurement Authority (PPA) is an independent central government agency subordinated to the Parliament.<sup>36</sup> Among other responsibilities, the PPA is responsible for enforcing the Act on Public Procurement, developing central guidelines, publishing and examining contract notices in the Public Procurement Bulletin, operating the electronic public procurement database, and publishing reports and statistics.<sup>37</sup>

The Public Procurement Council (different from the PPA) is composed of 14 members representing public interests and the interests of the contracting authorities and the tenderers. It is an advisory and supervisory body with the aim of representing the interests of all the parties potentially involved in public procurement. The members are nominated by different public authorities such as ministries responsible for the management of public funds, economic affairs, the SAO, etc.<sup>38</sup>

#### *Political Context*

With a two-thirds majority in the National Assembly, the Prime Minister proclaimed his plan to reconstruct the Hungarian state. Following the sweeping electoral victory in 2010, often referred as the “revolution at the ballot boxes,” the Prime Minister declared, “Hungary regained its right and capability to determine itself as an autonomous state.”<sup>39</sup>

While pushing all the aforementioned constitutional, legal and institutional reforms ahead, the ruling government also was active in minimizing the influence of constitutional and civil checks and balances.

With the adoption of the new Fundamental Law (FL), the government succeeded in weakening the power of the Constitutional Court. At the same time, the ruling party gained significant influence in the business and media sector.<sup>40</sup>

In reconstructing the Hungarian state and society, the ruling government had to tackle several political scandals in the last period. In addition to the tobacco scandal and the FOI amendment mentioned in section III Hungary had the following political issues:

- The Horváth scandal (November 2013 – ongoing): In November 2013, Mr András Horváth, ex-auditor at the National Tax and Customs Administration revealed that a number of companies committed VAT fraud with the informal approval of officers at the Tax Authority. Mr Horváth decided to seek publicity after several unsuccessful attempts of clarifying the cases with the Tax Authority's management and with the sitting government. The events received wide media coverage. Subsequently, the Tax Authority reported Mr Horváth for misuse of personal data. In December 2013 the police carried out a thorough search at Mr Horváth's home and seized all his documents and electronic storage units. Shortly after the seizure, the Tax Authority carried out an internal investigation of the documents and data in an extraordinarily fast procedure (the investigation took one weekend). The Authority found that the claims of the ex-auditor were unfounded and reported him for defamation.<sup>41</sup>
- The EEA-Norway Grants scandal (May – July 2014): The Hungarian Government accused Norway of interfering in the internal politics of the country by giving grants to NGOs that are rather critical of the Government's recent performance. The Norwegian Government strongly rejected the accusations and protested when the Government Control Office raided three NGOs that administer the civil society funding program of the European Economic Area and Norway Grants in June 2014.<sup>42</sup>
- Travel ban to the U.S. (October – November 2014): The U.S. Embassy imposed a travel ban on six Hungarian citizens based on credible information of engagement in corruption.<sup>43</sup> While the U.S. Embassy did not publish any information on the persons involved, rumors spread that allegedly high-level government officials are among the persona non grata. The U.S. declined all information requests issued by the Hungarian Government based on respect of privacy. In what follows, the Hungarian government questioned the American action, which really was unprecedented, not just in the American-Hungarian history, but also in the wider European diplomatic history of the last decades. The most recent twist in the scandal is that the Chair of the National Tax Authority gave an interview to a daily journal in which she admitted that she and several other employees of the authority are among the persons banned to enter U.S. territories. She also communicated this to the Prime Minister's office.<sup>44</sup>

Several nongovernmental reports expressed severe concerns with civic space and freedom of press in Hungary:

“Government actions related to the media have the effect of creating a public sphere that is monochromatic, incapable of dialogue and encourages an indifferent and obtuse attitude towards public affairs ... the government



perceives members of civil society that are critical of the government as its enemies, not as its partners.”<sup>45</sup>

Both national and international nongovernmental organizations are particularly concerned with issues such as the following:

- The ability of CSOs to work independently from the government and potentially to provide checks on political power. Many admit that although the legal framework is still hospitable, there is a significant dependency on government and government-controlled funds. The dependency is due partially to the absence of significant private charity and partially to less developed fundraising practices in the sector.<sup>46</sup>
- The actions (attacks) taken by the Government to investigate allocations of foreign sponsors aimed at promoting civil society projects in Hungary.<sup>47</sup>
- The media landscape dominated by pro-Fidesz media enterprises and further biased by a new advertising tax, reputed to be discriminatory and potentially limiting of freedom of expression.<sup>48</sup>
- The extent of self-censorship among journalists.<sup>49</sup>

While it is beyond the scope of this report to evaluate the strength of these claims, the concerns expressed are highly relevant to future success of OGP in Hungary. To that end, these concerns will need to continue to be monitored by all parties to the OGP process.

#### Stakeholder priorities during existing action plan

The MPAJ held three working group sessions with CSOs during the design phase of the action plan. Some of the CSOs' recommendations have been heeded and incorporated into the action plan by the government, including the recommendations to disclose public motions by local government bodies (3.4), to organize trainings on freedom of information for civil servants (5.2), and to set rules of lobbying activities (4.4). The government also accepted the recommendation to apply COFOG in the presentation of the central budget and to illustrate budget data by visualizations in a more comprehensible way (1).

The CSOs made recommendations in several areas, which are also addressed by the national action plan, but the official commitments differ from the ones originally recommended by the CSOs. While CSO recommended the disclosure of resolutions (“*határozat*”) from closed local governmental councils and committee meetings, the MPAJ made a commitment to hold open meetings for the utilization of local government property and procurement (3.3).

Whereas CSOs suggested the organization of integrity trainings for local government and SOE employees, the MPAJ called for the same only in the case of officials of state organs (5.1).

Likewise, CSOs called for a number of specific changes in the public procurement framework such as the following:

- The establishment of an electronic public procurement system,
- The disclosure of public procurement data in database form,
- The enforcement of full compliance with the law on public procurement law,
- The decreasing legal remedy fees for suing non-compliers, and
- The increased control of calls for proposals (“*hirdetmények*”) by the Public Procurement Authority.

The action plan has taken the recommendations to revise the public procurement law in terms of corruption risks (3.2) and to introduce identification numbers for each procurement organ and process in order to speed up online search (2).

In the field of integrity trainings, CSOs pointed out the importance of the participation of local government and SOE employees, in addition to public officials.

### Stakeholder priorities for future action plans

Based on the stakeholder survey, the stakeholder interviews and document analysis of the publications of the national stakeholders going back to 2012, the following arise as hot issues from the stakeholders' point of view:

1. Transparency of public finance
2. Transparency of public procurement
3. Financing of political parties and campaigns
4. Access to public service information
5. Transparency in management of public assets

*Transparency of Public Finance:* Transparency of public spending is very low in the country despite the fact that the new Constitution sets this as a principle.<sup>50</sup> Publishing of public expenditures disaggregated by functions would inform the broader public on how the public money is spent instead of just which government unit is spending. Enforcing publication of local budgets and budget reports would help both CSOs and private firms to monitor public spending at the local level.

*Transparency of Public Procurement:* This was also one of the main target areas of the CSO recommendations in 2012. Although the online public procurement database was set up and the database provides access to procurement data, there is still ample room for improvement. In addition to further work on the database, the ongoing revision of the public procurement law would be of utmost importance. Many stakeholders claim that the current regulation does not provide the appropriate legal framework for transparent and fair public procurements.<sup>51</sup>

*Access to Public Service Information:* CSOs of the working group proposed several changes in the area of freedom of information, in addition to the ones included in the current action plan. There are severe bottlenecks to and challenges with working with data managed and possessed by public authorities. The quality of public data in general is very low. The task is to improve access to public sector information, but the real challenge is to make the published data and datasets user-friendly, machine-readable, and accurate. Access to historical data (five to ten years old) should be considered a new priority.

Finally, there were some recommendations that have been altogether omitted from the OGP commitments and that deserve to be addressed in the future. These include

- The disclosure of public policy concepts and strategies by the government;
- Publicizing contracts on the use of public money in a database as well as sanctioning non-compliers;
- Revision of the legal framework for party and campaign financing;
- Regulating the concept of "business secret" with regards to the use of public property;
- The disclosure of local government decrees ("*rendelet*") and meeting protocols ("*önkormányzati testületi ülések jegyzőkönyve*").<sup>52</sup>

### Scope of action plan in relation to national context

As mentioned above, the scope of the Hungarian action plan was deliberately kept limited. This was the choice of the high-level decision makers at MPAJ in the follow up of the intra-government consultations.

With reflection on the facts and challenges described in the previous sections, the IRM researcher would suggest revising the Hungarian approach on open government and

starting to diversify the national strategy. It would be justifiable to focus more on the following areas and types of actions in the next period:

1. **Transparency of local public finance:** Promoting good practices of open budget initiatives at the local level and the exchange of public disclosure experiences among local authorities. Hungary may present some municipalities with a transparency-oriented approach, and more public attention should be paid to the good practices and their benefits.
2. **Improving capacity of government control and audit authorities:** Facilitating capacity building in the State Audit Office and the National Authority for Data Protection and Freedom of Information to improve their skills and competences in monitoring and enforcing public disclosure rules and freedom of information regulations.
3. **More transparency in law making and public consultation:** Taking further steps to fully implement and enforce the provisions of the 2010 law on social participation while drafting legislation, leaving enough time for stakeholders to comment, and providing feedback. Additionally, impact assessments should be published on the central government website.
4. **Promoting evidence-based policy making across all policy areas:** Convincing decision makers that developing relevant and reliable policy indicators and monitoring implementation ensures better performance in the long term.

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<sup>1</sup> “The Worldwide Governance Indicators (WGI) Project,” The World Bank, <http://.2it.ly/1rwwuAb>

<sup>2</sup> Organization for Economic Cooperation and Development (OECD), *Government at a Glance 2013* (Country Fact Sheet Hungary, 2013), <http://.2it.ly/1yTGVSG>

<sup>3</sup> Corruption Research Center Budapest, *Törvénytisztelők-e a Magyar Önkormányzatok? Városi Önkormányzatok Honlapjainak Elemzése [Do Hungarian Municipalities Abide by the Law? Analysis of Urban Municipalities' Webpages]* by Kelemen Zsófia, Angyal Éva, and Fazekas Mihály (Report, Budapest, 2014), [Hungarian] <http://.2it.ly/1CVKRS2>

<sup>4</sup> Corruption Research Center Budapest, *Törvénytisztelők-e a Magyar Önkormányzatok? Városi Önkormányzatok Honlapjainak Elemzése [Do Hungarian Municipalities Abide by the Law? Analysis of Urban Municipalities' Webpages]* by Kelemen Zsófia, Angyal Éva, and Fazekas Mihály (Report, Budapest, 2014), 36, [Hungarian] <http://.2it.ly/1CVKRS2>

<sup>5</sup> Transparency International Hungary, *Hungarian State-owned Enterprises: Their Transparency, Integrity and Compliance with Disclosure Requirements* by Ágnes Makó, István János Tóth, et al. (Report, Budapest, March 2014), <http://.2it.ly/15lfnES>

<sup>6</sup> Global Open Data Index: Survery, <http://global.census.okfn.org/>

<sup>7</sup> “OBI Questionnaire – Executive’s Budget Proposal,” <http://.2it.ly/1JKQxk4>

<sup>8</sup> European Commission, *Special Eurobarometer 374 Corruption* by TNS Opinion & Social (Report, February 2012), <http://.2it.ly/1C302KG>

<sup>9</sup> “Corruption Perception Index 2013 Brochure,” Transparency International, <http://.2it.ly/1ycyT7J>

<sup>10</sup> Hungarian Ministry of Foreign Affairs, “The Fundamental Law of Hungary,” revised by the Ministry of Public Administration and Justice, 25 April 2011, [English] <http://.2it.ly/1u1AgAU>

<sup>11</sup> “The Fundamental Law of Hungary,” Article “N,” paragraph (1), 25 April 2011, <http://.2it.ly/1u1AgAU>

<sup>12</sup> “The Fundamental Law of Hungary,” Art. 26, 25 April 2011, <http://.2it.ly/1u1AgAU>

<sup>13</sup> “The Fundamental Law of Hungary,” Art. 39, 25 April 2011, <http://.2it.ly/1u1AgAU>

<sup>14</sup> “The Fundamental Law of Hungary,” Art. 39, paragraph 2, 25 April 2011, <http://.2it.ly/1u1AgAU>

<sup>15</sup> “2009. Évi CLXIII. Törvény a Tisztességes Eljárás Védelméről, Valamint Az Ezzel Összefüggő Törvénymódosításokról [Act No. CLXIII of 2009 on the Protection of Fair Procedures],” <http://.2it.ly/1CI2I12>

<sup>16</sup> “2010. Évi CXXXI. Törvény a Társadalmi Konzultációról [Act No. CXXXI of 2010 on Social Participation in the Drafting of Legislation],” <http://.2it.ly/1Emkfh9>

<sup>17</sup> “2011. Évi CVIII. Törvény a Közbeszerzésekről [Act No. CVIII of 2011 on Public Procurement],” <http://.2it.ly/1xWgqYE>; “2003. Évi CXXIX. Törvény a Közbeszerzésekről [Act No. CXXIX of 2003 on Public Procurement],” <http://.2it.ly/1tibXgX>

<sup>18</sup> Hungarian Parliament, “Act No. CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information [2011. évi CXII. törvény - az információs önrendelkezési jogról és az információszabadságról],” Nemzeti Adatvédelmi és Információszabadság Hatóság (NAIH), 1 January 2012, <http://.2it.ly/1ww1AGH>

“50/2013. (II. 25.) Az Államigazgatási Szervek Integritásirányítási Rendszeréről És Az Érdekvénesítő Fogaadásának Rendjéről Korm.rendelet [Government Decree No. 50/2013. (II. 25.) on the Integrity Management System of Organs of Public Administration and on the Procedural Rules Applicable to Dealing with Lobbyists],” 2013, [Hungarian] <http://.2it.ly/15B6yvU>

<sup>19</sup> The scope of the criminal liability of legal persons was extended to include some areas where criminal liability of natural persons does not apply. “2012. Évi C. Törvény - a Büntető Törvénykönyvről [Act C of 2012 on the Criminal Code],” <http://.2it.ly/1yHVxUP>

<sup>20</sup> Közigazgatási És Igazságügyi Minisztérium, “Transparency International Hungary,” <http://.2it.ly/1uuhEce>

<sup>21</sup> “Minister of Public Administration, the State Audit Office, the President of the Supreme Court and the Prosecutor General’s Common Statement for Taking Joint Action Against Corruption,” Hungarian Corruption Prevention Program, 2012, <http://.2it.ly/1wxfoR6>

<sup>22</sup> “No. 1104/2012. (IV. 6.) Government Decision on Governmental Actions Against Corruption and the Adoption of the Corruption Prevention Program of the Public Administration,” <http://.2it.ly/1zdO427>

<sup>23</sup> “State Reform Operational Programme [Magyary Zoltán Közigazgatás-fejlesztési Program],” Hungarian Corruption Prevention Program, <http://.2it.ly/1EmnTaO>

<sup>24</sup> European Commission, *Annex Hungary to the EU Anti-Corruption Report* by the Commission to the Council and the European Parliament (Annex, Brussels, 3 February 2014), <http://.2it.ly/1JlIN3b>; “Az OGP Akcióterv Tervezetről [About the OGP Action Plan Development],” Transparency International Hungary, 31 January 2013, <http://.2it.ly/1CqZkHB>

<sup>25</sup> Since September 2013, the National Core Curriculum prescribes that within the framework of ethics courses, pupils aged seventeen and eighteen learn the topic of corruption in more detail. National Core Curriculum, <http://.2it.ly/1L9zNGX>

<sup>26</sup> The commitments were adopted in Government Decree 50/2013 (II.25).

<sup>27</sup> “Introduction of the System [Hatásvizsgálati Lap],” Hungarian Government OGP Portal, <http://.2it.ly/15JqfJl>; Methodological Notes and Handbooks [Segédanyagok], Hungarian Government OGP Portal, <http://.2it.ly/1CqZEWN>

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<sup>28</sup> The search-engine is available under the following website <http://bit.ly/1Bn9iLI>

<sup>29</sup> Hungarian Parliament, “Act No. CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information [2011. évi CXII. törvény - az információs önrendelkezési jogról és az információszabadságról],” Nemzeti Adatvédelmi és Információszabadság Hatóság (NAIH), 1 January 2012, <http://.2it.ly/1ww1AGH>; “General Information,” NAIH, <http://.2it.ly/1yTMals>

<sup>30</sup> “Integrity Project Features,” State Audit Office of Hungary, [http://integritas.asz.hu/Project\\_features](http://integritas.asz.hu/Project_features)

<sup>31</sup> “Közadatkerező,” <http://kozbeszerzes.hu>

<sup>32</sup> Privacy Policy Online Services, *A PPOS Összefoglalója Az Új Advédelmi Törvényről* by Kulcsár Zoltán (Report, Dunakeszi, 2 August 2011), <http://.2it.ly/1JLONca>

<sup>33</sup> HCLU, “The Hungarian data protection authority was conceived in sin”, (news, April, 2014) <http://tasz.hu/en/data-protection/hungarian-data-protection-authority-was-conceived-sin>

<sup>34</sup> “Activities of the Prosecution Service in 2011 (Extract from the Parliamentary Report),” Hungarian Parliament, <http://.2it.ly/1EmqQYN>

<sup>35</sup> “Integrity Project,” State Audit Office of Hungary, <http://integritas.asz.hu/>

<sup>36</sup> “1995. Évi XL. Törvény a Közbeszerzésekről [Act XL of 1995 on Public Procurement],” <http://.2it.ly/1EKwUb9>

<sup>37</sup> Hungarian Government, *Public Procurement Authority* by President of the Public Procurement Authority Dr. Róbert Gajdos (Report), <http://.2it.ly/15yPupP>

<sup>38</sup> Public Procurement Authority, <http://www.kozbeszerzes.hu/>

<sup>39</sup> Magyar Országgyűlés, “Legyen Béke, Szabadság És Egyetértés,” *Hírek*, Fidesz.hu, 14 May 2010, <http://.2it.ly/1zdUVsd>

<sup>40</sup> Center for Eastern Studies [Ośrodek Studiów Wschodnich], *In a State of Necessity: How Has Orbán Changed Hungary* by Andrzej Sadecki (Report No. 41, Warsaw, April 2014), <http://.2it.ly/1CI3B90>

<sup>41</sup> HCLU website, Why was the search of the whistleblower’s home unlawful? (April, 2014) <http://tasz.hu/en/freedom-information/why-was-search-whistleblowers-home-unlawful>  
Atlatso. Hu “Hungarian NGOs condemn police seizure of whistleblower’s evidence” (January, 2014) <http://atlatso.hu/2014/01/21/hungarian-ngos-condemn-police-seizure-of-whistleblowers-evidence/>

<sup>42</sup> “Where We Work: Hungary,” EEA-Norway Grants, <http://eeagrants.org/Where-we-work/Hungary>; “Government Attacks the Independent Hungarian Civil Sector with Investigations,” Norvég Civil, <http://.2it.ly/1zLUJA8>; Marton Dunai and Balazs Koranyi, “Hungary Raids NGOs, Accuses Norway of Political Meddling,” Reuters, 2 June 2013, <http://reut.rs/1uOKNEM>; Transparency International Secretariat, “Transparency International Calls for an Immediate End to Intimidation of Civil Society in Hungary,” press release, Transparency International, 4 June 2014, <http://.2it.ly/1kL9B4r>; “Hungarians Protest Against Crackdown on Civil Society,” news, Yahoo.com, 13 September 2014, <http://yhoo.it/1Bcmkpl>; MTI, “AI Hungary Calls on Govt to “Stop Targeting” NGOs,” Politics.hu, 18 June 2014, <http://.2it.ly/1pHE4Zd>

<sup>43</sup> “Statement in Response to Queries on U.S. Entry Ban for Certain Hungarian Individuals,” press release, Embassy of the United States in Budapest Hungary, 18 October 2014, <http://1.usa.gov/1CI3ZFw>

<sup>44</sup> “Vida Ildikó: Semmilyen Korrupciós Ügynek Nem Voltam És Nem Vagyok a Részesese,” MNO, 5 November 2014, <http://.2it.ly/1C4fx6F>

<sup>45</sup> Eötvös Károly Policy Institute et al., *Disrespect for European Values in Hungary 2010-2014* (Assessment, November 2014), 9-10, <http://.2it.ly/18igjRb>

<sup>46</sup> Eötvös Károly Policy Institute et al., *Disrespect for European Values in Hungary 2010-2014* (Assessment, November 2014), 9-10, <http://.2it.ly/18igjRb>; Központi Statisztikai Hivatal, *Statisztikai Tükör: A Nonprofit Szektor Legfontosabb Jellemzői 2012-ben [The Key Characteristics of the Nonprofit Sector in 2012]* (Report, 23 December 2013), <http://.2it.ly/1BqKAXN>; Freedom House, *Nations in Transit 2014: Hungary* by Balázs Áron Kovács (Report, 2014) <http://.2it.ly/1xWsetO>; “Nations in Transit Hungary,” Freedom House, <http://.2it.ly/1BcpMQV>

<sup>47</sup> United Nations Special Rapporteur Maina Kiai, *2014: The Year in Assembly and Association Rights* (Report, January 2015), <http://.2it.ly/1L9EqAB>

<sup>48</sup> “Közéleti Tartalom a Médiatörvény Előtt És Után [Public Affairs Content Before and After the New Media Law],” Mérték Médiaelemző Műhely, <http://.2it.ly/18ihO1S>; Eötvös Károly Policy Institute et al., *Disrespect for European Values in Hungary 2010-2014* (Assessment, November 2014), 9-10, <http://.2it.ly/18igjRb>; Organization for Security and Cooperation in Europe (OSCE), *Legal Analysis of Hungarian Media Legislation* by Katrin Nyman-Metcalf (Report, 28 February 2011), <http://www.osce.org/fom/75990>

<sup>49</sup> “Sajtószabadság-index 2012: Az Újságírók, a Médiavállalkozások És a Közönség Véleménye a Sajtószabadság Helyzetéről [Freedom of the Press Index 2012: The Opinion of Journalists, Media Enterprises and the Audience on the Situation of the Freedom of the Press],” Mérték Médiaelemző Műhely, 2012; “The Reins on Freedom: Self-Censorship in the Hungarian Press,” Mérték Médiaelemző Műhely, <http://.2it.ly/1C4iXqf>

<sup>50</sup> Hungarian Ministry of Foreign Affairs, “The Fundamental Law of Hungary,” revised by the Ministry of Public Administration and Justice, 25 April 2011, arts. 38-39,[English] <http://.2it.ly/1u1AgAU>

<sup>51</sup> “2011. Évi CVIII. Törvény a Közbiztosításokról [Act CVIII of 2011 on Public Procurement],” <http://.2it.ly/1tibXgX>

<sup>52</sup> “2011. Évi CVIII. Törvény a Közbiztosításokról [Act CVIII of 2011 on Public Procurement],” <http://.2it.ly/1tibXgX>; “Commentary on the 2012 Amendments of the 2011 Public Procurement Act,” Transparency International Hungary, <http://.2it.ly/1EIVCkF>

## VII. General recommendations

This section recommends general next steps rather than specific commitments regarding the OGP in Hungary.

### Crosscutting recommendations

Hungary is characterized by low trust in the public government, low levels of confidence in the public authorities, lack of citizen autonomy to disagree with public authorities, and public perceptions of widespread corruption.

This combination of perceptions can be changed only in the long term. Opening up the Hungarian government calls, first, for strong political ownership in the planning as much as in the implementation phase and, second, for effective collaboration between government and nongovernmental actors.

In the IRM researcher's point of view, the main general recommendations for the second action plan period would be the following:

1. High-level political leadership that could effectively help the public administration in charge of drafting and running transparency and anticorruption measures (see above on the supportive role of the secretary of state in the MPAJ in the early period, the strategic partnership signed by high-level public officials of the country with the OECD).
2. Efficient cooperation between the government and nongovernmental actors is feasible if this cooperation is based on a regular communication, effective feedback mechanisms and mutual openness and responsiveness. This means that public consultations would provide the chance for a real exchange of ideas and arguments, rather than serving as pro forma tools for increasing the legitimacy of any government action plan.
3. The real test of the political commitment and will is whether political support still exists after the formal adoption of the government plans, whether the high-level decision makers invest time and energy in the time-consuming monitoring efforts, and whether they pay attention to the enforcement of the adopted measures.

The success criterion of any government plan is ultimately whether the indicated measures have been implemented and delivered the expected results (with positive public impacts).

Based on the first action plan period, most of the national stakeholders highlighted the need for additional and/or improved efforts in the following areas:

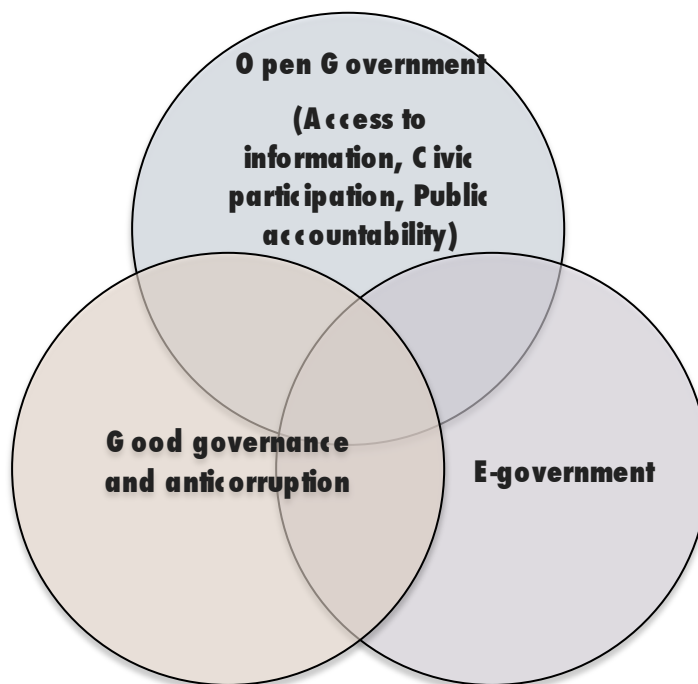
1. **Public finance:** Disclosure of municipal budgets and budget reports, improving the quality and interpretability of the dataset on the central budget.
2. **Financing of political parties and campaigns:** Prescription of more detailed and consolidated party accounts, revealing information also on the financial situation of the foundations affiliated with the given party, increased reporting obligations on electoral campaigns, independent auditing of party accounts, and sanctioning of violation of publishing rules.
3. **Better access to government information, thereby more influence on the quality of public services:** Revision of the Law on Freedom of Information, eliminating the risks of flexible interpretation of provisions on abusive requests for information, better enforcement of public disclosure rules (especially in the case of municipalities and state owned enterprises), and statutory restrictions on the option to classify information (especially in the case of municipalities and state owned enterprises).



4. **Public procurement:** Introduction of e-procurement, especially electronic submission of tenders, and further improvement of usability and functionality of the electronic public procurement database.

At the same time, the Hungarian Government can consider a broader but more targeted set of recommendations. This requires something of a re-envisioning of what can be in an OGP action plan, and it will require a strategic rethinking of how to develop the OGP process. This will include due consideration of what elements should be included in the plan. Diagram 1 shows that the scope of “open government” is not identical to “anticorruption,” but the two terms are closely related. This diagram can be used to facilitate discussions between government and civil society during the formulation of the next action plan, ensuring that future commitments make clear their relevance to the principles of OGP.

**Figure 1. Relationship of Open Government to E-government and Good Governance**



### Top SMART recommendations

Beginning in 2014, all OGP IRM report includes five key recommendations about the next OGP action planning cycle. Governments participating in OGP will be required to respond to these key recommendations in their annual self-assessments.

TOP FIVE ‘SMART’ RECOMMENDATIONS	
1. The State Audit Office (SAO) shall monitor public disclosure practices of local government authorities and state-owned enterprises (SOEs) on a regular basis. The results of these checks shall be published in the form of a “transparency ranking,” clearly separating the best and worst performing authorities and companies.	
In addition, the SAO’s monitoring and evaluation capacities should be developed in partnership with international organizations (e.g., OECD) and with national CSOs active and knowledgeable in the field.	
2. Review party and campaign financing regulations to improve the effective transparency of the flow of money by obligating parties to publish a report on campaign revenues and expenditures and by inviting CSOs to collaborate in tracking and monitoring.	

3. Revise the freedom of information regulations, with special attention to the provisions on abusive requests for information. Such a revision should clearly make the exception for ‘abusive requests’ as narrow as possible and place the burden of justifying any denials of requests for information on the particular agency.
4. Revise regulations on classified information to restrict the possibility that public authorities will use this option and thereby hamper access to public data.
5. Launch e-procurement (especially the electronic submission of tenders) and upgrade the electronic public procurement database in line with the feedback and recommendations of data-using CSOs.



## VIII. Methodology and Sources

As a complement to the government self-assessment, an independent IRM assessment report is written by well-respected governance researchers, preferably from each OGP participating country.

These experts use a common OGP independent report questionnaire and guidelines,<sup>1</sup> based on a combination of interviews with local OGP stakeholders as well as desk-based analysis. This report is shared with a small International Expert Panel (appointed by the OGP Steering Committee) for peer review to ensure that the highest standards of research and due diligence have been applied.

Analysis of progress on OGP action plans is a combination of interviews, desk research, and feedback from nongovernmental stakeholder meetings. The IRM report builds on the findings of the government's own self-assessment report and any other assessments of progress put out by civil society, the private sector, or international organizations.

Each local researcher carries out stakeholder meetings to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested or affected parties. Consequently, the IRM strives for methodological transparency, and, therefore where possible, makes public the process of stakeholder engagement in research (detailed later in this section). In those national contexts where anonymity of informants—governmental or nongovernmental—is required, the IRM reserves the ability to protect the anonymity of informants. Additionally, because of the necessary limitations of the method, the IRM strongly encourages commentary on public drafts of each national document.

### Interviews and focus groups

Each national researcher will carry out at least one public information-gathering event. Care should be taken in inviting stakeholders outside of the “usual suspects” list of invitees already participating in existing processes. Supplementary means may be needed to gather the inputs of stakeholders in a more meaningful way (e.g., online surveys, written responses, and follow-up interviews). Additionally, researchers perform specific interviews with responsible agencies when the commitments require more information than provided in the self-assessment report or accessible online.

The IRM researcher conducted five interviews with representatives of CSOs and one interview with a government official in charge of coordinating the action plan. In mid-August, the IRM researcher conducted an interview with the K-Monitor, a watchdog for public funds, and with Transparency International Hungary on the following topics: budget data transparency, public procurement data including transparency and fair competition, and integrity in the public administration. At the beginning of September 2014, the IRM researcher interviewed a lead expert of the Corruption Research Center Budapest, who addressed public procurement related issues. Two more interviews were conducted with businesses in October 2014.

### Document library

The IRM uses publicly accessible online libraries as a repository for the information gathered throughout the course of the research process. All the original documents, as well as several documents cited within this report, are available for viewing and comments in the IRM Online Library in Hungary, at <http://www.opengovpartnership.org/country/hungary>.

### **C. Survey-based data (optional)**

The IRM researcher sent an invitation to participate in a stakeholder survey to all the CSOs participating in the OGP WG and to three individual experts from Hungary, after receiving contact information from the government contact, on 2 October 2014. For the questionnaire, see the section on “Stakeholder consultation - Questionnaire” in the Annex.

Seven organizations (K-Monitor, the Hungarian Civil Liberties Union, Transparency International Hungary, the American Chamber of Commerce in Hungary, the Fiscal Responsibility Institute Budapest, the Budapest Institute, and the Corruption Center Budapest) and three independent experts returned their responses.

### **About the Independent Reporting Mechanism**

The IRM is a key means by which government, civil society, and the private sector can track government development and implementation of OGP action plans on a biannual basis. The design of research and quality control of such reports is carried out by the International Experts’ Panel, comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts’ Panel is:

- Yamini Aiyar
- Debbie Budlender
- Jonathan Fox
- Rosemary McGee
- Gerardo Munck

A small staff based in Washington, DC shepherds reports through the IRM process in close coordination with the researcher. Questions and comments about this report can be directed to the staff at [irm@opengovpartnership.org](mailto:irm@opengovpartnership.org).

## Annex

**Table 1. List of members of the OGP working group and of the Civil Consultation Forum**

1. American Chamber of Commerce in Hungary
2. <i>Átlátszó.hu (investigative online portal)*</i>
3. Corvinus University of Budapest, Corruption Research Center Budapest
4. Budapest Institute for Policy Analysis*
5. Civil Unity Forum – Civil Unity Public Benefit Foundation (CÖF-CÖKA)
6. Council on Geopolitics Foundation
7. Settlement 2000 Unity
8. Szabadságvédő Alapítvány
9. Joint Venture Association
10. <i>K-Monitor: Watchdog for Public Funds*</i>
11. Environmental Management and Law Association (EMLA)
12. Women for the Hungarian Nation Association
13. Hungarian Government Officials Corps
14. British Chamber of Commerce in Hungary
15. <i>Hungarian Civil Liberties Union (TASZ)*</i>
16. <i>Transparency International Hungary*</i>
<i>Official member: National University of Public Service</i>

Note: Organizations in italics joined first the Civil Consultation Forum. Organizations with an asterisk (\*) left the Civil Consultation Forum after the June 2013 Amendment of the Law on Freedom of Information.

## Stakeholder consultation - Questionnaire

### **Open Government Partnership - Independent Research Mechanism Stakeholder consultation – Questionnaire September 2014**

#### **I. Planning / public consultation period**

*Please, indicate concrete examples, stories – if any, which may help to understand your point in a more demonstrative way!*

1. Was power shared with stakeholders on decision-making on commitment inclusion or action areas?
2. Did you consider the consultation to be meaningful?
3. What channels and fora you used to influence the planning process?
4. The division of government responsibilities and competences among partner(s) at the government side was clear to you?
5. How would you assess the HU government's attitude towards:
  - taking up initiatives on national commitments
  - openness and responsiveness in planning
  - transparency and
  - predictability of the planning process .

#### **II. Implementation period**

*Please, indicate concrete examples, stories – if any, which may help to understand your point in a more demonstrative way!*

1. Was power shared with stakeholders on decision-making on modification of / input of any new commitment during the implementation period?
2. How did you follow up the implementation process (main channels, fora)?
3. What channels and fora you used to influence the implementation?
4. The division of government responsibilities and competences among partner(s) at the government side was clear to you?
5. How would you assess the HU government's attitude towards:
  - taking up initiatives on any new commitment
  - openness and responsiveness to adjust the national action plan
  - transparency and
  - consistency of the implementation period.
6. All in all, how would you assess:

- the coherence of the OGP national action plan to the national context, to the ongoing reform in the public sector?
  - the overall progress since the approval of the national plan (February 2013)?
  - the innovativeness or added value of the OGP national action plan/ of the accomplished commitments in the national and international context?
7. What (general or specific) recommendations would you give to the HU government in view of the new action plan period (2015-16)?

*Please, share with us any other comments, feedback not covered above!*

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### **III. Commitment-specific questions - optional**

*Please pick the commitment and the relevant questions in line with your professional preferences and knowledge on the planning and state of implementation of the given HU commitment(s)!*

#### **Commitment 1. Improving the publicity of fiscal data (COFOG 2)**

- a) What do you think of the importance of this commitment?
- b) What is your opinion on the accomplishment of this commitment (publication of fiscal data on the [website](#) of the National Treasury Office (*Magyar Államkincstár*)?
- c) In your opinion, why does this commitment receive limited media attention?

#### **Commitment 2. Improving the searchability of public procurement data**

- a) Do you think that, the 2013 amendment to the Public Procurement Act (CXVI / 2013) promotes and helps better access to public procurement data?
- b) Any strengths and weaknesses of the new regulation with regard to access to data?
- c) What is your opinion about the new [Public Procurement Database](#) – regarding access to, scope and quality of data (e.g., accuracy, user-friendliness, reliability and validity, etc.)?

#### **Commitment 3.1. Checking compliance with disclosure obligations**

- a) This activity was scheduled to start on 1 Dec 2013, but is still in delay. What is your opinion on the recent delay?

#### **Commitment 3.2. Revision of the implementation of the PPA and the rules of national and community budgetary financial assistance**

- a) Do you think, that the 2013 amendment to the Public Procurement Act (CXVI / 2013) complies with your expectations regarding this commitment?
- b) Do you think that the recent regulatory and institutional framework in the field of public procurement is effective in minimising corruption risks in public procedures?
- c) Any strengths and weaknesses of the recent regulatory framework?

#### **Commitment 3.3. Holding an open meeting when utilisation of local government property and procurement issues are discussed**

- a) Have you tracked the accomplishment of this commitment? If yes, what do you know about it?
- b) What do you think of the importance of this commitment?

**Commitment 4.1. Ensuring the participation of public sector organizations and state-owned business companies in the Integrity Survey of the State Audit Office**

- a) What do you think, how effective are the Agreement Offers (Együttműködési ajánlatok) to induce public sector organizations to participate?
- b) Do you think that the sanctions for non-participation are effective?
- c) What is your opinion on the extent and scope of participation of state-owned enterprises in this area?

**Commitment 4.2. Integrity Control System (ICS) in the Public Sector**

- a) What do you think about the position of 'integrity official' in the public authorities?
- b) How would you assess their ability and capacity to enforce the compliance with integrity rules in public organizations?
- c) In your opinion what elements of the ICS work efficiently and in an effective way in the public institutions?
- d) In your opinion what elements of the ICS could be improved in the final period of the recent implementation period / in the next period?

**Commitment 4.3. Creating the institutional system for the protection of whistleblowers**

- a) What do you think about the relevance and effectiveness of the new Whistleblowing Act (CLXV / 2013)? Does it provide the necessary and sufficient protection for whistleblowers?
- b) What are the improvements in comparison to the previous regulation (Act CLXIII of 2009 on the Protection of Fair Procedures)?

**Commitment 4.4. Determining the rules of keeping contact between state organs and interest representation groups**

- a) What are the strengths and (potential) weaknesses of the new regulation on the contact between state organs and interest representation groups?
- b) In your opinion, how effective were the provisions of the Act On Public Participation in Developing Legislation (CXXXI /2010)?
- c) Would you support the view that the earlier lobby regulation had to be revised? Which were the most supporting arguments?

**Commitment 4.5. Extending the preliminary impact assessment with the analysis of corruption risks**

- a) How would you assess the compliance with this new procedural rule in the policy preparation process?
- b) Could you point to any strengths and weaknesses of this measure / of the implementation of this measure?

**Commitment 4.6. Codes of Professional Conduct**

- a) What is your opinion on the codes elaborated and issued since February 2013?
- b) In your opinion how effectively do these codes guide the daily operation of an ordinary civil servant?

**Commitment 5.1. Anti-corruption training for public officials**

- a) What is your opinion on the training series and content offered to civil servants since February 2013?

**Commitment 5.2. Freedom of information trainings for public administration, local government and judicial sector workers**

- a) Are you familiar with the content of these trainings? How would you evaluate them?
- b) Do you have information on any form of participants' feedback?

**Commitment 5.3. Increasing the knowledge and consciousness of members of society about corruption phenomena**

- a) Why do you think that the compliance/non-compliance with this commitment has received so little media attention?

**Commitment 5.4. Incorporating the values and knowledge relating to corruption phenomena as well as the attitudes and counter-measures that may be applied against them in school education**

- a) In your opinion to what extent was corruption as such a topic in the school curricula before the commitments were made?
- b) Do you have information on any feedbacks on the recent coverage and scope of the issue in the National Curriculum from the actors in the education sector?

## Interview guide during the expert interviews

### Schedule of the meeting

Short introduction of the Budapest Institute (BI), on the OGP IRM project (BI's tasks, timeline, expected outputs)

Short introduction of the interviewee

Main topics covered:

1. Drafting phase– responsible organizations, consultations
2. Implementation phase - commitments, progress

#### 1. Drafting phase – responsibilities, competences, consultations

Questions:

- Who / which department is responsible for the drafting and implementation of the commitments?
- Any responsible organizations/public authorities besides the MPAJ?
- How many unique government agencies or offices are covered by or are responsible for commitments in the action plan?
- How many unique government agencies or offices were involved in the development of the action plan? Who were the main actors?
- What were the major milestones (as per the records of the MPAJ) in the development of the AP?
- Is the President/Prime Minister, a committee of the President/Prime Minister, or a staff member within the President/Prime Minister's office directly involved with OGP?
- Is the Ministry of Foreign Affairs (or Department of State or Chancellery) one of the ministries or agencies involved in contributing to the country's OGP development?
- Was there a change in the organization(s) leading or involved with the OGP initiatives during the development and implementation of the action plan?
- Why was the MPAJ appointed as the chief responsible organization?
- Was the executive leader changed during the duration of the OGP action plan development and implementation phase?
- Was the process for public consultation and timeline or schedule available? Online / other channels?
- What was the schedule of the working group meetings?
- Was there advance notice of the consultation process?
- Were there any awareness raising activities - either around the meetings, or on the consultation process?
- Was a summary of public consultation, including all individual submissions, available online? Material was available online or sent around within the Working Group? (WG)
- Was the consultation "invitation-only" or open to all interested parties? Were new members invited based on the recommendation of the WG or the Government?

#### 2. Implementation phase - commitments, progress

Questions:



Commitment 1 (Improving the publicity of fiscal data)

- What is the current state of the commitment? Why was it not completed by the original deadline?

Commitment 3.1 (extending compliance checks with disclosure obligations)?

- Who is responsible for the implementation?
- Why has no action been taken in this field?

Commitment 3.2 (revision of the Public Procurement Act)

- What was the motivation of this measure?
- What were the expectations concerning this measure?

Commitment 3.4 (public motions by local government bodies should be disclosed)

- In what sense is this a new measure?
- What were the expectations attached to this measure?

Commitment 4.1 (participation of public sector organizations and state-owned business companies in the Integrity Survey of the State Audit Office?)

- SOE were not included in previous surveys?
- Did the SAO in the end include SOE-s in the survey?

Commitment 4.6 (Codes of Professional Conduct for government officials and law and order personnel)

- Plans to create Ethics Code for other public authorities as well?

Commitment 5.1 (training for public officials in the topics of integrity, anti-corruption and ethics)

- To what extent is the material new? (SAO's integrity project)
- What is the content of the trainings?
- Who are the participants? Is participation compulsory or voluntary?

Commitment 5.2. (training system of state organs, trainings elements for public administration, local government and judicial sector workers on the freedom of information)

- What is the state of accomplishment?
- Practical examples?

Commitment 5.3 (awareness raising campaign – corruption)

- What is the state of play concerning this commitment?

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<sup>1</sup> Full research guidance can be found in the IRM Procedures Manual, available at: <http://www.opengovpartnership.org.1bout.1bout-irm>.