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**Hungary – Civil Society Report**  
**By Transparency International Hungary**  
**An input to the UNCAC Implementation Review Mechanism:**  
**Third year of review of UNCAC chapters III and IV**

**– Executive Summary –**

This is the executive summary of a Transparency International Hungary report<sup>1</sup> that reviews Hungary's implementation and enforcement of selected articles in the UN Convention against Corruption (UNCAC) chapters III (Criminalization and Law Enforcement) and IV (International Cooperation).

The report is intended as a contribution to the UNCAC peer review process of Hungary covering those two chapters. The UNCAC articles that receive particular attention in the report are those covering prosecution, adjudication and sanctions (Article 30), witness protection (Article 32), protection of reporting persons (Article 33), specialised authorities (Article 36), cooperation between national authorities (Article 38) and bank secrecy (Article 40). This report was based on the self-assessment document and the information enclosed submitted to TI Hungary by the Ministry of Public Administration and Justice in March 2013.

TI Hungary assesses corruption in Hungary on a regular basis and by using a variety of measurement tools. TI Hungary's Latest research findings, our surveys, in-depth interviews, opinion polls and Transparency International's Corruption Perception Index show that Hungary is still severely affected by corruption. Establishing accountability and fighting corruption pose a serious political, legal and economic challenge. Moreover, Hungary's system of checks and balances has been weakened significantly, as a result of which there are no effective players in the political arena who can control the power of the government. Laws are often tailor-made to favour the interests of governing parties or those of certain lobby groups. Due to the control institutions' inability to limit the government's power, private interests prevail over public good. Even where legislation provides adequate grounds for independence, it is doubtful whether control institutions can operate free of interference in practice.

New schemes of corruption have emerged since 2010 as corruption has become systemic. Corruption risks arising from the symbiotic relationship between the government and some powerful business groups, the de facto elimination of the independence of control institutions other than the judiciary, the lack of transparency concerning government decision-making, as well as the clear involvement of private interests in the legislative process (known in the literature as "rent seeking"), together signal that the state in Hungary has been captured by powerful groups.

The spheres that face the most alarming corruption risks are political parties and the business sector. While the lobbying act has been repealed with no intention of

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<sup>1</sup> The full report is available at <http://www.uncaccoalition.org/en/uncac-review/cso-review-reports.html>. Its author is Petra Burai (TI Hungary). The full report will be used for continuing the dialogue and engagement with stakeholders, including the government, beyond the first round country review process.

re-regulation, rules on party and campaign financing do not ensure transparency and accountability. Political parties finance their operations through funding obtained from unidentified sources. Businesses face a heavy regulatory burden and unpredictable state interventions.

Recently the law on freedom of information has been amended so as to seriously hinder the ability of civil society to disclose the misuse of public funds.<sup>2</sup> Growing systemic corruption and an increasingly unaccountable institutional system go hand in hand with an astonishing level of public apathy. Seventy per cent of Hungarians say they would not report a case of corruption, an exceptionally high proportion compared to other European countries.<sup>3</sup>

## Assessment of the review process

### Conduct of process

The following table provides an assessment of transparency, country visits and civil society participation in the UNCAC review of Hungary.

Table 1

#### Transparency and CSO participation in the review process

Did the government make public the contact details of the country focal point?	Yes
Was civil society consulted in the preparation of the self-assessment?	No
Was the self-assessment published online or provided to CSOs?	Yes
Did the government agree to a country visit?	Yes
Was a country visit undertaken?	Yes
Was civil society invited to provide input to the official reviewers?	No
Has the government committed to publishing the full country report?	No

### Availability of information

The government shared with TI Hungary both the self-assessment report and related documents (statistics and reports made by police, prosecution and judiciary). To gain this information, TI Hungary had to file numerous requests to the Ministry of Public Administration and Justice. Requests did not make reference to freedom of information legislation; the government's decision to disclose requested information was of a political nature.

<sup>2</sup> According to the amendment of the Freedom of Information Act of CXII of 2011 adopted on 30 April 2013, a request for public information might be denied if servicing it would be an undue burden for the state agency concerned. <http://www.parlament.hu/irom39/10904/10904-0014.pdf>.

<sup>3</sup> Transparency International's Global Corruption Barometer 2013.

## Implementation into law and enforcement

Table 2

### Implementation and enforcement summary table

UNCAC article	Status of implementation (Is the article Fully/Partially/ Not implemented?)	How are these provisions enforced in practice? (Good/Moderate/Poor)
<b>Article 15 (bribery)</b>	Fully	Moderate
<b>Article 16 (foreign bribery)</b>	Fully	Poor
<b>Article 17 (embezzlement)</b>	Fully	Good
<b>Article 20 (illicit enrichment)</b>	Fully	Good
<b>Article 23 (money laundering)</b>	Fully	Poor
<b>Article 26 (liability of legal persons)</b>	Partially	Poor
<b>Article 32 and 33 (protection of witnesses, and whistleblowers)</b>	Not implemented	Poor
<b>Article 35 (compensation for damage)</b>	Partially	Poor
<b>Article 46(9)(b)&amp;(c) (mutual legal assistance)</b>	Fully	Poor

Criminal law provisions on corruption are comprehensive, with no major deficiencies in the legislative frame, except for the liability of legal persons. Hungarian law requires that a natural person be convicted before liability of a legal person can be established. Hungary is unable to ensure that a legal person cannot avoid responsibility by committing an act of bribery.

Enforcement of criminal laws on corruption faces serious backlogs. This is explained by structural shortcomings of the administration of criminal investigations. The police are direct subordinates of the minister of the interior, and no hindrances are put in the system to prevent the minister from interfering in individual cases. Concerns arise from the rules of the nomination and election of the Prosecutor General, which do not exclude political influence from the process. The Prosecutor General exercises expanded discretion concerning reassigning cases and awarding final decisions. Cases may be referred to another prosecutor without explanation. There is no forum independent from the prosecution service where an appeal can be presented against a decision not to bring a case to court. The Prosecutor General's accountability has been narrowed.

Hungary lags far behind expectations in the protection of whistleblowers. The government has adopted a new law on "complaints and announcements of general interest", which is envisioned as a tool to protect reporting persons. TI Hungary says that the new law fails to achieve this goal. Instead of improving the protection of reporting persons and providing more effective institutional solutions to uncover wrongdoing, the new law simply compiles a set of existing mechanisms. It declares that anyone can lay information on perceived wrongdoing before current, existing authorities, but turns a blind eye to the fact that these authorities do not adequately proceed on such information. Protection of reporting persons is limited, saying that any retaliation to which a whistleblower might be exposed shall be unlawful.

If an offender alerts the authorities to his or her corruption-related offence, the legislation will now consider this a mitigating factor rather than a ground for dispensing with the charges entirely. This provision is a serious limitation of the

effectiveness of criminal laws. Granting impunity can serve as an incentive to reporting on corruption. Turning this to a potential mitigating factor badly discourages offenders of corruption from cooperating with the authorities.

A new law repealed criminal law protection of reporting persons, which made criminal sanctions applicable to those exposing reporting persons to retribution.

### **Recommendations for priority actions**

1. Engage in open talks with civil society on how to improve legislation in the anti-corruption field and how to best enforce amended legislation. Government should exclude from this process sham NGOs which it has invited to participate, and which always take a robustly pro-government position.

2. Repeal the amended provisions of the law on freedom of information, which curtail access to information of public interest. Improve access to public interest information, including through active disclosure in an easy-to-digest format on websites of public institutions and state-owned businesses, and allocate public resources in a more transparent way.

3. Reconsider laws on protection of reporting persons, on liability of legal entities, on lobbying, on the prosecution service and on the administration of the judiciary.

4. Provide better protection to persons reporting corruption and designate a state agency to carry out these duties.

5. Re-regulate the laws on party and campaign financing so that these become transparent, and make control institutions examine de facto expenditures of parties.

6. Improve administration of criminal investigations. Ensure the de facto independence of the prosecution and police from political interference. Protect the de facto professional autonomy of the prosecutor. Consider re-regulation of the prosecution service, rethinking its role in employing crime policies and its independence from the executive.

7. Increase awareness of corruption in the private sector, and promote better internal controls and compliance programmes.