



HUNGARIAN  
HELSINKI  
COMMITTEE



## ASSESSMENT OF COMPLIANCE BY HUNGARY WITH CONDITIONS TO ACCESS EUROPEAN UNION FUNDS

### Summary table

April 2023<sup>1</sup>

### I. Assessment of compliance with milestones under the Recovery and Resilience Plan and with conditionality measures<sup>2</sup>

No. <sup>3</sup>	Description of milestone	Qualitative indicator	Indicative timeline for completion	Evaluation of compliance	Main deficiencies regarding the implementation
C9.R1 Establishment of an Integrity Authority to reinforce the prevention, detection and correction of fraud, conflicts of interest and corruption as well as other illegalities and irregularities concerning the implementation of Union support					
<b>160</b>	<b>Setting up of an Integrity Authority*</b>	<b>Start of activity of the Integrity Authority</b>	<b>Q4 2022</b>	partially	Challenges remain regarding the verification of asset declarations and the powers of the Authority in case of projects initially envisaged for Union support which were subsequently withdrawn from Union support. Its whistleblower platform is not operational.

<sup>1</sup> This assessment works with a cut-off date of **31 March 2023**, and so reviews the steps taken by the Hungarian authorities until that date.

<sup>2</sup> "Super" milestones, the implementation of which is a precondition for any payment from the Recovery and Resilience Facility, are indicated in the table with bold. Beyond the super milestones, the table includes "ordinary" milestones from the component "Governance and Public Administration" that were due to have been complied with by the end of the first quarter of 2023 at the latest. Milestones related to conditionality measures are marked with an asterisk (\*).

<sup>3</sup> The numbering of the milestones in this table is the numbering used by the [Annex](#) to the Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Hungary.

161	Report on the Integrity Risk Assessment Exercise	Publication of the report	Q1 2023	yes	
162	Start of application of the powers and competences on the verification of asset declarations by the Integrity Authority	Start of application of powers and competences for the verification of asset declarations by the Integrity Authority	Q1 2023	partially	The Authority's power is set to verify the asset declarations of several officials but only "in the course of performing its duties", and limited to initiate investigation at other state bodies. There is no information published on the application of these powers available.
C9.R2: Establishment of an Anti-Corruption Task Force to monitor and review the measures taken in Hungary to prevent, detect, prosecute and sanction corruption					
166	<b>Establishment of an Anti-Corruption Task Force*</b>	<b>The Anti-Corruption Task Force shall be established and hold its first meeting</b>	<b>Q4 2022</b>	yes	Experience so far suggests that further regulation of processes and powers may be necessary.
167	The annual analysis of the Anti-Corruption Task Force for the year 2022 is publicly available	Publication of the first annual report of the Anti-Corruption Task Force for the year 2022	Q1 2023	partially	The report has been published, but it does not provide an in-depth assessment of the problems.
C9.R3: Introduction of a specific procedure in the case of special crimes related to the exercise of public authority or the management of public property ('judicial review')					
169	<b>Introduction of a specific procedure in the case of special crimes related to the exercise of public authority or the management of public property*</b>	<b>Provision in the amendment of Act XC of 2017 on the Code of Criminal Procedure indicating entry into force and start of application</b>	<b>Q4 2022</b>	partially	Private prosecution has been established but the prevailing rules (short deadlines, limited access to case files, lack of the right to legal remedies) make an effective prosecution impossible.
C9.R4: Strengthening rules related to asset declarations					
171	<b>Entry into force of legislative amendments extending the personal and material scope of asset declarations, while ensuring frequent disclosure*</b>	<b>Provision in the legislative amendments indicating their entry into force and start of application</b>	<b>Q4 2022</b>	partially	The amendments have reinstalled the asset declaration system to its much-criticised form that was in place before summer 2022. However, information that has to be submitted is limited in two key areas. One real estate serving for the exclusive use of the declarant and their family living in the same household does

					not have to be indicated. Furthermore, incomes of declarants have only to be submitted in ranges, while previously exact amounts were required.
172	Setting up of a new system for the electronic submission of asset declarations in digital format and a public database for asset declarations	Full functionality, start of operation and complete scope of asset declarations made available in a new electronic asset declaration system	Q1 2023	no	No searchable and centralised database for asset declarations established yet. However, a bill that includes measures on establishing it has been presented to the Parliament (T/3131), but not voted on yet.
<b>C9.R5: Ensuring the transparency of the use of public resources by public interest asset management foundations</b>					
174	<b>Entry into force of an act ensuring effective oversight on how public interest asset management foundations performing public interest activity and legal persons established or maintained by them make use of Union support*</b>	<b>Provision in the legislative act indicating the entry into force</b>	<b>Q4 2022</b>	no	Conflict of interest rules and legislation on the appointment of board members and the operation of the Boards of Trustees of public interest asset management foundations did not change. No additional rules have been set that would clarify which state bodies are competent to oversee the use of public funds and Union support. The courts of registration only carry out general checks on legal compliance and do not have supervisory powers over the management of public funds. The only measure fulfilled was the designation of public interest asset management foundations and the legal persons established or maintained by them as contracting authorities within the meaning of Section 5 of Act CXLIII of 2005 on Public Procurement.
<b>C9.R6: Enhancing the transparency of public spending</b>					
175	<b>Entry into force of a legislative act ensuring enhanced transparency of public spending*</b>	<b>Entry into force of a legislative act ensuring enhanced transparency of public spending</b>	<b>Q4 2022</b>	partially	Only the metadata of the contracts is required to be uploaded to the Central Public Data Information Registry instead of the whole contract.

					Public interest asset management foundations and public companies are not subject to the publication requirement. The scope of the transparency procedure, which may be conducted by the National Authority for Data Protection and Freedom of Information, is too narrow.
176	The central register set up under the remedial measures in the conditionality procedure is fully operational and the full set of information required is available in it	Relevant public authorities have uploaded all required data in the central register and the central register is available to the public	Q1 2023	partially	It is not possible to search for beneficiaries or contractors of budgetary bodies, and entities in the database cannot be listed. The search engine does not enable anyone to analyse the data in an effective and comprehensive manner.
Cg.R7: Development and implementation of a National Anti-corruption strategy and action plan					
177	Strengthening the anti-corruption framework in Hungary by implementing concrete actions under the National Anti-Corruption Strategy and a related Action plan covering the period 2020-2022	Implementation of specific actions under the National Anti-Corruption Strategy and related Action plan covering 2020-2022 by the Government	Q1 2023	no	There is no publicly available information on the implementation of the National Anti-Corruption Strategy.
Cg.R9: Awareness-raising for the eradication of gratuity payments in the healthcare sector					
182	Launch of an awareness-raising campaign on the acceptability of gratuity payments in healthcare	The contract with the contractor implementing the public awareness-raising campaign is signed and the campaign has started	Q4 2022	no	No campaign has been launched as of 31 March 2023.
Cg.R10: Reducing the share of single-bid public procurement procedures					
185 (Target)	The share of tender procedures with single bids for procurements financed from Union support shall not exceed 15%		Q1 2023	yes	
186 (Target)	The share of tender procedures with single bids for procurements		Q1 2023	yes	

	financed from national resources shall not exceed 32%				
195	<b>Setting up of a monitoring and reporting tool (“single-bid reporting tool”) to monitor and report on public procurements closed with single-bids financed from Union support or from national resources in accordance with the Single Market Scoreboard methodology*</b>	<b>The monitoring and reporting tool is fully functional and operational and its functionalities are verified to be in accordance with the methodology of the Single Market Scoreboard</b>	Q3 2022	yes	
196	First report based on the “single-bid reporting tool” is made available	The first report based on information from the single reporting tool is made publicly available	Q1 2023	yes	
C9.R11: Development of the Electronic Public Procurement System (EPS) to increase transparency					
197	<b>The EPS functions allowing the structured search and bulk export of contract award notice data are available to the public*</b>	<b>The EPS upgraded with the new functionalities is fully operational and accessible by the public.</b>	Q3 2022	partially	The aggregated publication highlighted shortcomings in the quality of public procurement data. The lacking or incorrect publication of public procurement data makes it difficult to compare data. The further use of the downloaded data may require data cleaning or possible verification, cross-checking with individual notices.
198	<b>The EPS functions allowing the structured search and bulk export of all data related to subcontractors is available to the public*</b>	<b>The EPS upgraded with the new functionality allowing the bulk export of all information related to subcontractors is fully operational and accessible by the public.</b>	Q4 2022	partially	Information on subcontractors is incomplete, as their inclusion was not compulsory for a long time in the contract award notices.
199	The EPS functions allowing the structured search and bulk export	All data related to contract award notices from 1 January	Q1 2023	partially	Data prior to 2018 are incomplete as several variables, such as subcontractors

	of contract award notice data from 1 January 2014 are available to the public	2014 are made available for search and bulk export in the EPS system			and tax numbers, were not required for a long time, making it difficult to use the data further.
C9.R12: Performance measurement framework for public procurements					
200	Setting up of a performance measurement framework of public procurements*	Adoption of a Government Decision on the setting up of a performance measurement framework assessing the efficiency and cost effectiveness of public procurements and the reasons for limited competition in the sectors most affected by low level of competition	Q3 2022	yes	
201	Entry into operation of a performance measurement framework of public procurements*	Entry into operation of a performance measurement framework assessing the efficiency and cost effectiveness of public procurements and the reasons for limited competition in the sectors most affected by low level of competition	Q4 2022	yes	
202	First annual analysis carried out under the performance measurement framework of public procurements	Publication of the first annual analysis assessing the efficiency and cost-effectiveness of public procurements and the reasons for limited competition in the sectors most affected by the low level of competition for the year 2022	Q1 2023	yes	Note that according to the opinion of the Performance Measurement Framework Working Group lack of data prevented the disclosure of relevant information about the prevalence of cost overruns compared to the estimated price.

C9.R13: Action plan for increasing the level of competition in public procurement					
203	Adoption of an action plan to increase the level of competition in public procurement*	Publication of the action plan adopted by the government	Q1 2023	partially	According to the report by the Performance Measurement Framework Working Group, further analysis is also needed of the activities of central purchasing organisations and in particular the National Communications Agency. According to the report by the Integrity Authority, to detect corruption at the data level, it would be essential to detect data linkages, to develop a risk analysis system and to create channels for civilian control. The respective government resolution does not contain any measure referring to these suggestions.
C9.R14: Training scheme, and support scheme, on procurement for micro-, small and medium-sized enterprises to facilitate their participation in public procurement procedures					
209	Setting up a support scheme for compensating the costs associated with participating in public procurements of micro-, small and medium-sized enterprises*	Launch of the scheme	Q1 2023	yes	Minor challenges remain regarding the overall effectiveness of the scheme as there is no particular focus on micro and small enterprises, and only an ex-post compensation was made available. According to the call for applications, SMEs are eligible for a one-time cost compensation of EUR 1,600 if they submit a valid public procurement bid.
C9.R15: Strengthening the role and powers of the National Judicial Council to counterbalance the powers of the President of the National Office for the Judiciary					
213	<b>Entry into force of legislative amendments to strengthen the role of the National Judicial Council while safeguarding its independence</b>	<b>Provision in the legislative amendments indicating their entry into force</b>	Q1 2023	no	No legislative amendments have been passed by the Parliament by 31 March 2023. (The Government published a draft proposal on 18 January 2023 on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan for public consultation; the respective bill has not been submitted yet

					to the Parliament. The draft proposal does not fully comply with all elements required by the milestone.)
<b>C9.R16: Strengthening judicial independence of the Supreme Court (Kúria)</b>					
<b>214</b>	<b>Entry into force of amendments to strengthen judicial independence of the Supreme Court</b>	<b>Adopted and effective amendments to the rules on the election of the Kúria President, the case allocation scheme, and the functioning of the Kúria</b>	<b>Q1 2023</b>	<b>no</b>	No legislative amendments have been passed by the Parliament by 31 March 2023. (The Government published a draft proposal on 18 January 2023 on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan for public consultation; the respective bill has not been submitted yet to the Parliament. The draft proposal does not fully comply with all elements required by the milestone.)
<b>C9.R17: Removing obstacles to references for preliminary rulings to the Court of Justice of the European Union</b>					
<b>215</b>	<b>Entry into force of legislative amendments to remove obstacles to references for preliminary rulings to the Court of Justice of the European Union</b>	<b>Provision in the legislative amendments indicating their entry into force</b>	<b>Q1 2023</b>	<b>no</b>	No legislative amendments have been passed by the Parliament by 31 March 2023. (The Government published a draft proposal on 18 January 2023 on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan for public consultation; the respective bill has not been submitted yet to the Parliament. The draft proposal does not fully comply with all elements required by the milestone.)
<b>C9.R18: Reform regarding the review of final judgments by the Constitutional Court</b>					
<b>216</b>	<b>Entry into force of legislative amendments to remove the possibility for public authorities to challenge final decisions before the Constitutional Court</b>	<b>Provision in the legislative amendments indicating their entry into force</b>	<b>Q1 2023</b>	<b>no</b>	No legislative amendments have been passed by the Parliament by 31 March 2023. (The Government published a draft proposal on 18 January 2023 on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and



					Resilience Plan for public consultation; the respective bill has not been submitted yet to the Parliament. The draft proposal does not fully comply with all elements required by the milestone.)
C9.R19: Reinforced legal provisions setting out implementation, monitoring, and audit and control arrangements to guarantee the sound use of Union support					
217	Legal mandate for the implementation, audit and control of the recovery and resilience plan*	Entry into force of the Government Decree on the roles and responsibilities of bodies involved in the implementation, audit and control of the Hungarian recovery and resilience plan	Q3 2022	yes	
218	Amendment of the legal provisions relating to the implementation, monitoring, control and audit of the European Structural and Investment Funds and the funds under Regulation (EU) 2021/1060 in Hungary*	Provision in the Government Decrees on the implementation, monitoring, control and audit of the European Structural and Investment Funds and the funds under Regulation (EU) 2021/1060 in Hungary indicating entry into force	Q3 2022	yes	
219	Adoption and start of application of guidelines to ensure the effective the prevention, detection and correction of conflict of interest for the staff of all bodies involved in the implementation, control and audit of Union support in Hungary*	Start of application of detailed guidelines on conflict of interest	Q4 2022	no	No guidelines are publicly available besides the relevant Commission Notice.
C9.R20: An effective anti-fraud and anti-corruption strategy for the implementation, audit and control of Union support					

220	Ensuring effective prevention, detection and correction of fraud and corruption in the implementation of Union support by drawing up and implementing an effective anti-fraud and anti-corruption strategy for Union support*	Entry into force of an anti-fraud and anti-corruption strategy for Union support	Q3 2022	yes	
221	Ensuring effective prevention, detection and correction of fraud and corruption in the implementation of Union support by drawing up and implementing an effective action plan related to the anti-fraud and anti-corruption strategy for Union support*	Entry into force of an action plan related to the anti-fraud and anti-corruption strategy for Union support	Q4 2022	yes	
C9.R21: Full and effective use of the Arachne system for all Union support					
222	Ensuring effective prevention, detection and correction of fraud and corruption in the implementation of Union support through appropriate arrangements ensuring the effective use of the Arachne risk-scoring tool*	Start applying procedures ensuring the systematic use of the Arachne risk-scoring tool to effectively prevent and detect fraud, corruption, conflict of interest and other irregularities	Q3 2022	yes	
223	Ensuring effective prevention, detection and correction of fraud and corruption in the implementation of Union support by confirming the adequacy of the procedures on the systematic and effective use of the Arachne risk-scoring tool*	Unqualified final audit report of EUTAF confirming the adequacy of procedures on the systematic and effective use of the Arachne risk-scoring tool and the completeness of data uploaded to Arachne	Q4 2022	partially	While the legal basis for the final audit of EUTAF is established, there is no publicly available information on the practical implementation of this milestone.

Cg.R22: Establishment of a Directorate of Internal Audit and Integrity to reinforce the control of conflicts of interest when implementing Union support					
224	Ensuring effective prevention, detection and correction of fraud and corruption in the implementation of Union support through the setting up and full functioning of a new Directorate of Internal Audit and Integrity (DIAI)	A new Directorate of Internal Audit and Integrity (DIAI) set up in the ministry responsible for the implementation of Union support, is fully staffed, its rules of procedures and internal processes are in place and it is fully operational	Q4 2022	yes	
Cg.R23: Ensuring the capacity for the EUTAF to effectively carry out its tasks					
225	Ensuring effective prevention, detection and correction of fraud and corruption in the implementation of Union support through appropriate capacity for EUTAF	Entry into force of legislative amendments to provide the necessary financial and human resources to the EUTAF	Q4 2022	yes	
Cg.R24: Strengthening cooperation with OLAF to reinforce the detection of fraud related to the implementation of Union support					
226	Designation of a national authority in charge with assisting OLAF with its on-the-spot checks in Hungary and the introduction of the possibility to levy financial sanctions on non-cooperating economic actors*	Entry into force of a legislative amendment designating the competent authority and of a legislative amendment introducing the possibility to levy dissuasive financial sanctions on non-cooperating economic actors	Q4 2022	yes	
Cg.R25: Effective implementation, control and audit of the Recovery and Resilience Plan and the protection of the financial interests of the Union					
227	Monitoring system for the implementation of the Hungarian recovery and resilience plan	Audit report confirming the functionalities and operation of the repository system for the recovery and resilience plan	Q4 2022	no	There is no publicly available information on the implementation of this measure.

228	Ensuring effective audit of the implementation of the Hungarian recovery and resilience plan	Entry into force of an audit strategy by EUTAF for the recovery and resilience plan	Q4 2022	yes	
Cg.R26: Improving transparency and access to public information					
229	Entry into force of a legislative act ensuring legal predictability in access to public information cases in court	Provision in the legislative act indicating the entry into force	Q4 2022	partially	<p>Implementation anomalies occurring following freedom of information lawsuits, when public bodies fail to comply with final judgments ordering the disclosure of data of public interest, have not been resolved.</p> <p>The law does not prohibit the data controller from modifying the reasons for refusing the data request in the course of a lawsuit, and does not obligate the defendant to file a counterclaim in advance.</p> <p>The data requestor may not refer to changes that occurred posterior to the submission of the request for information: the lawsuit is tied to their request in terms of the requested set of public information and the courts may refuse to take into account any changes occurring till the end of the lawsuit.</p>
230	Entry into force of legislative amendments ensuring increased transparency of public information	Provisions in the legislative amendments indicating their entry into force	Q4 2022	partially	<p>Due to the ongoing and practically forever renewable state of danger in Hungary there is nothing to prevent the Government from introducing the emergency extension of the time limit for responding to public information requests at any time again.</p> <p>The law still does not ensure that the information made available upon an access to information request shall be made available in the Central Public Data Information Registry.</p>

231	Report of the Government Control Office on access to public information (1)	Publication of the report of the Government Control Office on the compliance of public bodies with their respective obligations regarding access to public information	Q4 2022	yes	Representatives of the Prime Minister's Office in the Anti-Corruption Task Force asserted that this milestone erroneously charges the Government Control Office with reporting on access to public information. This task was apportioned to the National Data Protection and Freedom of Information Authority.
C9.R27: Improving the quality of law-making and effective involvement of stakeholders and social partners in decision-making					
234	Entry into force of a legislative act laying down the framework for effectively involving all relevant stakeholders in the implementation of the Hungarian recovery and resilience plan	Provision in the legislative act indicating entry into force	Q3 2022	yes	
235	Entry into force of amendments to the relevant legislative acts to enhance the use of public consultations and impact assessments in the law-making process	Provisions in the legislative amendments indicating their entry into force	Q4 2022	partially	<p>The range of exceptions when draft laws do not have to or must not be subject to public consultation remains wide.</p> <p>Ministries almost never provide a longer consultation period than the statutory minimum of eight days, irrespective of the length and complexity of the draft law.</p> <p>The transparency of the process is not adequately ensured.</p> <p>The quality of impact assessments is often inadequate.</p> <p>No steps have been taken to develop the capacity of the Office of the Parliament to help MPs and parliamentary committees to prepare impact assessments and conduct stakeholder consultations for the bills proposed by them.</p>

237 (Target)	Strengthening the effective application of rules concerning obligatory public consultation of legislative acts and the systematic publication of preliminary impact assessment summaries (1)		Q1 2023	partially	<p>Several significant laws were not published for public consultation in the period covered.</p> <p>The Government is extremely reluctant to accept the opinions received.</p> <p>The report by EUTAF required to confirm the achievement of the target that 90% of the draft laws in the last three months of 2022 were put to public consultation is not available.</p> <p>The Government uses its excessive powers to issue emergency decrees (which are not subject to public consultation) extensively and in an abusive manner.</p>
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## II. Assessment of compliance with the horizontal enabling condition on the effective application and implementation of the Charter of Fundamental Rights

Required measure as inferred from the respective Commission implementing decision(s)	Evaluation of compliance	Main deficiencies regarding the implementation
Academic freedom and public interest asset management foundations		
Entry into force of legislative amendments providing adequate safeguards for the independence and democratic accountability of the Boards of Trustees managing higher education institutions. Changes in the composition and functioning of Boards of Trustees should ensure their independence of the executive branch and university autonomy.	no	<p>The Higher Education Act deteriorates from the guarantees of academic freedom and institutional autonomy in the case of the institutions maintained by public interest asset management foundations.</p> <p>Members of Boards of Trustees are directly appointed by the Government for life. Their appointment lacks any involvement of the Senates of the universities, and they do not need to meet any qualified criteria to be eligible for the position.</p> <p>Boards of Trustees are in a position to rip the Senates of their self-governing rights and directly control higher education institutions. No effective oversight of Boards of Trustees is guaranteed.</p>

Right to asylum and the principle of non-refoulement		
Repealing the pre-procedure system introduced in Hungary in 2020 that must be completed in a Hungarian embassy in a third country before a third-country national who is present on Hungarian territory, including at its border, can make an application for international protection	no	The pre-procedure system (the so-called “embassy system”) remains in force and no information is available on any planned changes.
Implementation of the CJEU’s judgment in Case C-808/18 regarding the rules and practices in the transit zones at the Serbian-Hungarian border	no	Collective expulsions of unlawfully staying third-country nationals continue, despite the CJEU judgment. The domestic provisions legalising such measures remain in force. No information is available on any planned changes.
Implementation of the CJEU’s judgment in Case C-821/19 regarding legislation criminalising the organisation of activities carried out to assist the initiation of applications for international protection in Hungary	partially	The original content of the impugned criminal provision was replaced by a different one, but the Court’s and the European Commission’s key concern of deterring the provision of legal assistance to asylum-seekers remain. The relevant implementing decision was issued by the European Commission following the adoption of the above-mentioned changes, also indicating that these are not assessed to implement the judgment in Case C-821/19.
Rights of LGBTQI+ persons		
Repealing provisions of Act LXXIX of 2021 that prohibit or limit access to content that “propagates” or portrays the so-called “divergence from self-identity corresponding to sex at birth, sex change or homosexuality”	no	Provisions of Act LXXIX of 2021 that prohibit or limit access to content that “propagates” or portrays the so-called “divergence from self-identity corresponding to sex at birth, sex change or homosexuality” has not been repealed and no legislative changes have been introduced that would target the related concerns.

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**Conclusion:**

- Out of the 27 super milestones, 13 have been achieved, 7 have been achieved only partly, and 7 have not been achieved.
- Out of the 20 “ordinary” milestones and targets that were due by the end of the first quarter of 2023 the latest, 8 have been achieved, 9 have been achieved only partly, and 3 have not been achieved.
- None of the areas of concern identified in relation to the operational programmes and the effective application and implementation of the Charter of Fundamental Rights have been addressed.