



ASSESSMENT OF HUNGARY'S COMPLIANCE WITH CONDITIONS TO ACCESS EUROPEAN UNION FUNDS

15 November 2023

The European Union is currently blocking EU funds to Hungary under three separate instruments:

- Under the **conditionality mechanism**, Hungary has committed to adopt **17 anti-corruption measures**. In December 2022, the Council found that the remedial measures adopted up to that point had significant weaknesses, and decided to suspend 55% of the budgetary commitments under three operational programmes with regard to Hungary, amounting to approximately €6.3 billion. The Council also prohibited, in relation to EU funds, entering into financial commitments with public interest asset management foundations.
- Regarding Hungary's **Recovery and Resilience Plan (RRP)**, the Council defined numerous milestones with a rule of law connection, including **27 "super milestones"** that Hungary has to fully and correctly fulfil before it can receive any payment under the EU's Recovery and Resilience Facility – €5.8 billion in total. A significant part of the milestones coincides with the measures required under the conditionality mechanism, while four super milestones are aimed at restoring the independence of the judiciary.
- Finally, the European Commission found in relation to 10 operational programmes that Hungary fails to comply with the so-called **horizontal enabling condition** "effective application and implementation of the Charter of Fundamental Rights" (1) due to deficiencies around judicial independence (the same as the ones raised under the RRP), and so Hungary cannot access the respective EU funds until these are addressed. Under certain operational programmes, it is also set out as an obstacle to accessing funds that (2) the operation of public interest asset management foundations, many of them maintaining universities, (3) various elements of the Hungarian asylum system, and (4) the Hungarian anti-LGBTQI+ law adopted in 2021 also violate the Charter.

In order to comply with the above requirements and access EU funds, certain legislative and administrative steps were taken by the Hungarian government and governing majority. However, the implementation of the reforms falls short of expectations, also lacking both pace and genuine commitment, and the effectiveness and sustainability of the already adopted changes remain largely to be seen.

- As regards **anti-corruption measures**, the implementation of the commitments is **far from being carried out at the right pace and with the ambition to achieve real results** in the fight against corruption in Hungary. The implementation of many of the measures will at best only formally meet the milestones, and the implementation of the substantive commitments is already seriously delayed.
- The **judicial reform package** adopted in May 2023 remains fundamentally deficient: three out of the four respective super milestones are **implemented defectively** even at the level of the legal framework, and there are areas where further proof is required of the proper implementation of the milestones to verify compliance.
- The concerns related to **academic freedom, the right to asylum and the principle of non-refoulement, and the rights of LGBTQI+ persons have not been resolved**.

In the two tables below, Hungarian civil society organisations provide a “traffic-light” assessment of Hungary’s compliance (i) with the conditionality measures and the milestones under the RRP, and (ii) with the horizontal enabling condition “effective application and implementation of the Charter of Fundamental Rights” in the areas identified by the Commission, and provide brief explanations on the main deficiencies regarding the implementation. The conclusion of our assessment is that, up until 15 November 2023, the Hungarian government had not taken adequate steps in order to fully address the rule of law and human rights concerns raised, and so it **had not complied with most of the conditions established by EU institutions** to access EU funds:

- **Out of the 27 super milestones, 13 have been achieved, 12 have been achieved only partly, and 2 have not been achieved.**
- **Out of the 27 “ordinary” milestones and targets relevant from a rule of law and anti-corruption perspective that were due by the end of the third quarter of 2023 the latest, 9 have been achieved, 11 have been achieved only partly, and 7 have not been achieved.**
- **Out of the four areas of concern identified in relation to the operational programmes and the effective application and implementation of the Charter of Fundamental Rights, two areas have been only partially addressed, and two areas have not been addressed at all.**

For more detailed information, see the following analyses:

On the anti-corruption measures and academic freedom:

- K-Monitor, [A year of missed opportunities – Assessment of the implementation of the anti-corruption commitments](#), October 2023

On the judicial package:

- Amnesty International Hungary – Eötvös Károly Institute – Hungarian Helsinki Committee, [Assessment of Act X of 2023 on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan](#), 22 May 2023
- Amnesty International Hungary – Eötvös Károly Institute – Hungarian Helsinki Committee, [Summary table of compliance of the judicial package with the milestones](#), 23 May 2023
- Hungarian Helsinki Committee, [Fundamental deficiencies of the Hungarian judicial reform](#), 31 October 2023
- Amnesty International Hungary – Eötvös Károly Institute – Hungarian Helsinki Committee, [Questions and Answers on the requirement to remove obstacles to references for preliminary rulings to the Court of Justice of the European Union](#), 16 May 2023

On the right to asylum and the principle of non-refoulement:

- Hungarian Helsinki Committee, [Selected rule of law and human rights developments in light of the Article 7\(1\) TEU procedure](#), 2 November 2023

On the rights of LGBTIQ+ persons:

- Amnesty International Hungary – Háttér Society, [Hungary: Continued Backsliding on LGBTIQ Rights](#), November 2023

Amnesty International has contributed to sections of this document based on its assessment of LGBTIQ+ rights and judicial independence in Hungary, in line with the Hungarian government’s human rights obligations. The organisation has not conducted an equivalent assessment of the other issues mentioned in this submission.

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I. Assessment of compliance with milestones under the Recovery and Resilience Plan and with conditionality measures¹

| No. ² | Description of milestone | Qualitative indicator | Indicative timeline for completion | Evaluation of compliance | Main deficiencies regarding the implementation |
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| 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 | | | | | |
| 160 | Setting up of an Integrity Authority* | Start of activity of the Integrity Authority | Q4 2022 | 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. |
| 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 | no | The Integrity Authority is not in a position to carry out this task. The amended law only provides for the investigative part of the verification of asset declarations to be carried out by the Authority, leaving the asset declaration procedure itself – which may result in dismissal from office – to other bodies and failing to define the exact powers of the Integrity Authority vis-à-vis asset declarations. An even more serious practical problem is that the Integrity Authority has not been given access to the databases it would need to carry out verification. This shortcoming is also pointed out by the Authority in its report. |

¹ “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 RRP’s component “Governance and Public Administration” relevant from a rule of law and anti-corruption perspective that were due to have been complied with by the end of the third quarter of 2023 at the latest. Milestones related to conditionality measures are marked with an asterisk (*).

² 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.

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| 163 | The annual Integrity Report for the year 2022 is made publicly available | Publication of the first annual Integrity Report, for the year 2022 | Q2 2023 | yes | |
| 164 | The Government examines the first annual Integrity Report of the Integrity Authority and provides its responses in writing | Publication of the Government's response on the first annual Integrity Report and its detailed explanation on how it intends to address each of the findings therein | Q3 2023 | partially | The Government's response was published in early October 2023. The Government only agreed and committed to take action on only 12 (25%) out of the 47 recommendations. |
| 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 | Establishment of an Anti-Corruption Task Force* | The Anti-Corruption Task Force shall be established and hold its first meeting | Q4 2022 | partially | The Task Force is operating with 8 non-governmental members since May 2023. No suitable candidates have been found for the remaining posts. Moreover, the regulation relating to the Task Force is incommensurate vis-à-vis non-governmental members in terms of replacement and remunerations. |
| 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 was published in March 2023, but it does not provide an in-depth assessment of the problems. In May, the Anti-Corruption Task Force (ACTF) published its supplemental report on the draft National Anti-Corruption Strategy. |
| 168 | The Government examines the first report of the Task Force | Publication of the Government's response on the first report of the Task Force | Q2 2023 | yes | The Government published its report with a serious delay. In its response, the Government denied jurisdiction in cases which pertain to the competence of other state agencies. This means that the Government is not going to signalise to the competent authorities, even though the ACTF itself is not entitled to reach out to these agencies. |
| 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 | Introduction of a specific procedure in the case of special | Provision in the amendment of Act XC of 2017 on the | Q4 2022 | partially | Private prosecution has been established but the prevailing rules (short deadlines, limited access to |

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| | crimes related to the exercise of public authority or the management of public property* | Code of Criminal Procedure indicating entry into force and start of application | | | case files, lack of the right to legal remedies) make an effective prosecution impossible. According to information received from the National Office for the Judiciary, until the end of October 2023, 22 complaints were submitted, out of which the court dismissed 17, while the decision regarding the remaining 5 complaints was underway. Until the end of October, no motion for private prosecution was submitted. A major deficiency of the regulation is that it is only applicable in case of criminal processes terminated or crime reports submitted on 1 January 2023 or later, which is in clear contradiction with the requirements laid down in this specific milestone. |
| C9.R4: Strengthening rules related to asset declarations | | | | | |
| 171 | Entry into force of legislative amendments extending the personal and material scope of asset declarations, while ensuring frequent disclosure* | Provision in the legislative amendments indicating their entry into force and start of application | Q4 2022 | partially | The legislation did not succeed to extend the material scope of asset declarations. The legislation in its current form is a step backwards from the system that has been in place for years: it is not required anymore to declare all real estates, and instead of submitting exact amounts of their income, declarants can use an income scale, with the highest range of EUR 13,000 and above. The scope of reporting on the assets and incomes the declarants indirectly hold or indirectly benefit from still remains unclear. |
| 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 | In March 2023, the Government tabled Bill T/3131 on "the modification of rules related to asset declarations in order to reach an agreement with the European Commission", which was intended to settle the commitments to create a searchable database of asset declarations. The text and even the title of the bill was completely eliminated last minute after the parliamentary debate in order to replace it by the provisions of the justice reform. |

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| | | | | | The issue of the asset declaration database was thus left in the dust. The searchability of MPs' asset declarations was essentially addressed by cramming all (!) the asset declarations of MPs into one single searchable pdf file (which is around 2,000 pages), which is not a database. |
| 173 | Introduction of effective administrative and criminal sanctions concerning the serious violations of asset declaration obligations | Start of application of the new sanctions regime concerning serious violations of asset declaration obligations | Q3 2023 | no | Not only has the legal framework not been put in place, but there has not even been any consultation or debate on it, and the issue is not even included in the latest draft Anti-Corruption Strategy 2023-2025. |
| C9.R5: Ensuring the transparency of the use of public resources by public interest asset management foundations | | | | | |
| 174 | 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* | Provision in the legislative act indicating the entry into force | Q4 2022 | 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. |
| C9.R6: Enhancing the transparency of public spending | | | | | |
| 175 | Entry into force of a legislative act ensuring enhanced transparency of public spending* | Entry into force of a legislative act ensuring enhanced transparency of public spending | Q4 2022 | 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, public companies and local governments are not subject to the publication requirement. The scope of the |

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| | | | | | 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 | While according to the relevant milestone the central register should be in "an open, interoperable and machine-readable format, which allows bulk download and data to be sorted, searched, extracted, compared and reused", in reality, the data is only made available in separate files per government body every two months and cannot be automatically processed. The site's main aim, to help find contract data of the beneficiaries of public funds, remains out of reach. |
| C9.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 | partially | There is no publicly available information on the implementation of the 2020-2022 National Anti-Corruption Strategy. |
| 178 | Strengthening the anti-corruption framework in Hungary by putting in place a new National Anti-Corruption Strategy and a related Action plan | Adoption and start of implementation of the new National Anti-Corruption Strategy and related Action plan by the Government | Q2 2023 | no | As of 13 November 2023, the new National Anti-Corruption Strategy has not been adopted yet. |
| C9.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 | The contractor signed the contract on 26 September 2023 (!). However, this was a conditional procurement, and according to the contractual terms, if the grant contract providing the funding has not been concluded by 1 October 2023, the contract will be null and void. According to the latest available data, the grant contract is still not concluded. |

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| 183 | Interim assessment of the first results of the awareness-raising campaign on the acceptability of gratuity payments in healthcare | Finalisation of an interim assessment of the first results of the awareness- raising campaign | Q3 2023 | no | As the campaign has not started yet, accordingly, no interim assessment was carried out. |
| 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 financed from national resources shall not exceed 32%* | | Q1 2023 | yes | |
| 195 | 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* | 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 | 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 | |
| Cg.R11: Development of the Electronic Public Procurement System (EPS) to increase transparency | | | | | |
| 197 | The EPS functions allowing the structured search and bulk export of contract award notice data are available to the public* | The EPS upgraded with the new functionalities is fully operational and accessible by the public. | 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. |

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| | | | | | In the meantime, accessibility of information included in the database operated by the Public Procurement Authority (available under www.kozbeszerzes.hu) was deteriorated by reCaptcha codes included in each separate contract award notice. |
| 198 | The EPS functions allowing the structured search and bulk export of all data related to subcontractors is available to the public* | 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. | 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 of contract award notice data from 1 January 2014 are available to the public | All data related to contract award notices from 1 January 2014 are made available for search and bulk export in the EPS system | Q1 2023 | partially | Data prior to 2018 are incomplete as several variables, such as subcontractors and tax numbers, were not required for a long time, making it difficult to use the data further. Only information relating to the winning bidder is available in the data set, while data on non-winning bidders is missing, although according to court rulings, accessibility of non-winning bids ought to be granted. In case of EU-funded projects, Grant ID number is not available. |
| 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 | Q3 2022 | yes | |

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| | | most affected by low level of competition | | | |
| 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 main findings and recommendations of the Performance Measurement Framework Working Group, it is important to refine the methodology and to improve data quality. |
| 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 | The action plan adopted by the Government to increase competition in public procurement has relatively limited ambition. Among other things, it provides for improvements to the search engine of the EPS, registration for the EPS-notifications and the publication of various guides, with only two major novel elements: full anonymous access to public procurement documents in the EPS and a reduction in appeal fees. |
| C9.R14: Training scheme, and support scheme, on procurement for micro-, small and medium-sized enterprises to facilitate their participation in public procurement procedures | | | | | |

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| 205 | Launch of a training scheme for facilitating the participation of micro-, small and medium-sized enterprises in public procurement procedures* | Launch of the scheme | Q2 2023 | yes | The online training scheme and a dedicated website was launched with online courses. The number of participants remains unclear. |
| 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 | partially | As the call for proposals was not drafted carefully enough, there are already indications that the flat-rate subsidies may have been accessed by fraudsters – several interest groups have registered for the flat-rate support through several stakeholders, and SMEs that were completely unsuitable for the public procurements in question also received support (typically public procurement consultant firms have applied for public procurements of construction or goods and received the support). |
| 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 | Entry into force of legislative amendments to strengthen the role of the National Judicial Council while safeguarding its independence | Provision in the legislative amendments indicating their entry into force | Q1 2023 | partially | (i) The judicial package adopted in May 2023 fails to ensure via transitional rules the effective exercise of the powers of the National Judicial Council (NJC) to give a motivated binding opinion on regulations. The law should ensure the effective exercise of this power by providing, among the transitional provisions, for a maximum initial period during which the NJC, endowed with new powers, should be able to review the regulations in question and exercise its right to consent. (ii) Legal provisions continue to allow the President of the National Office for the Judiciary to grant the position of presiding judge without an application procedure after the termination of the secondment of judges, allowing them to obtain a judicial leadership position circumventing the normal application system. |
| C9.R16: Strengthening judicial independence of the Supreme Court (Kúria) | | | | | |

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| 214 | Entry into force of amendments to strengthen judicial independence of the Supreme Court | Adopted and effective amendments to the rules on the election of the Kúria President, the case allocation scheme, and the functioning of the Kúria | Q1 2023 | partially | <p>(i) The judicial package adopted in May 2023, while formally states that the Kúria President cannot be re-elected, does not change the current rules that allow a one-third minority of the Parliament to keep the Kúria President in office (as the Kúria President remains in office as long as their successor is not elected by a two-third majority). The new rules further narrow the pool of potential candidates for the President's position by modifications not required by the milestone.</p> <p>(ii) The judicial package fails to provide concrete guarantees of cases being assigned to judges without human intervention because it does not specify the objective criteria based on which the automatic assignment should be carried out (e.g., the order of arrival as an objective criterion). There are no objective criteria for the establishment of the chamber proceeding in the case (which is not per se the same as the bench hearing the case according to the judicial package), which makes it possible to manipulate the final composition of the bench hearing the case.</p> <p>(iii) The judicial package cements the composition of the uniformity complaint chamber without providing adequate guarantees for its autonomy and professionalism in decision-making.</p> |
| C9.R17: Removing obstacles to references for preliminary rulings to the Court of Justice of the European Union | | | | | |
| 215 | Entry into force of legislative amendments to remove obstacles to references for preliminary rulings to the Court of Justice of the European Union | Provision in the legislative amendments indicating their entry into force | Q1 2023 | partially | The judicial package adopted in May 2023 abolished the procedural obstacles preventing judges from making a preliminary reference, but fails to address the substantive obstacle leaving effective and applicable the binding precedential decision Bt.III.838/2019/11. of the Kúria, which declares that a preliminary reference shall be deemed unlawful "if the request to initiate the preliminary ruling |

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| | | | | | procedure does not concern the interpretation or validity of European Community norms". |
| C9.R18: Reform regarding the review of final judgments by the Constitutional Court | | | | | |
| 216 | Entry into force of legislative amendments to remove the possibility for public authorities to challenge final decisions before the Constitutional Court | Provision in the legislative amendments indicating their entry into force | Q1 2023 | yes | |
| 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 | Start of application of detailed guidelines on conflict of interest | Q4 2022 | no | No guidance has been published on conflicts of interest in the institutional system for the allocation of EU funds, except for the Commission's own guidance. This shortcoming was also pointed out by the Integrity Authority in its Annual Report. However, the Government responded that it was unnecessary to implement the Integrity Authority's recommendation, as a guidance had been issued for |

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| | audit of Union support in Hungary* | | | | preventing conflict of interest in the area of public procurement (!). This latter, however, cannot be assessed in the light of this milestone. |
| 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 | Unqualified final audit report of EUTAF confirming the adequacy of procedures on the systematic and | 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. |

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| | by confirming the adequacy of the procedures on the systematic and effective use of the Arachne risk-scoring tool* | effective use of the Arachne risk-scoring tool and the completeness of data uploaded to Arachne | | | |
| C9.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 | |
| C9.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 | |
| C9.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 | |
| C9.R25: Effective implementation, control and audit of the Recovery and Resilience Plan and the protection of the financial interests of the Union | | | | | |

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| 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 | partially | In relation to the monitoring of the implementation of the Recovery and Resilience Plan, it is worth mentioning that while the new members of the Monitoring Committee had been selected through a public call for application, and they were able to comment in writing on the new ReNew Chapter of the Recovery and Resilience Plan, no monitoring Committee Meeting has been held to date. |
| 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>The new litigation rules have indeed significantly speeded up access to information court cases, however, some courts, including the Kúria still happen to set deadlines according to previous rules. A court case can now be closed in less than a year instead of a year and a half or more such procedures used to take previously. However, the fast-track rules can in many cases be burdensome for the data requester. Besides, the regulation enables third party litigation to protect business secrecy of defendants, which is seriously problematic in practice and carries the risk of hindering expeditious decisions.</p> <p>Moreover, these ill-advised provisions, which had been defined and adopted without prior consultations, failed to address most of the outstanding issues in the access to information domain, such as, e.g.: lack of equality of arms in court processes, lack of consequence of malicious actions or omissions in court, etc. The legislative reform did not improve the inclination of public bodies and users of public funds either, whose reluctance to respond to public interest information</p> |

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| | | | | | requests or to proactively disclose information still prevail. |
| 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 | 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. |
| 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 | no | This task clearly falls outside the functions and expertise of the Government Control Office, however, government representatives have previously indicated in the Anti-Corruption Task Force that the milestone will ultimately be carried out by the National Authority for Data Protection and Freedom of Information. However, the Authority's powers have not been broadened in a way that would clearly place it within its remit to meet this milestone. Moreover, in practice, there is no sign or publicly available information indicating that the National Authority for Data Protection and Freedom of Information would carry out this new function. |
| Cg.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 | (i) The range of exceptions when draft laws do not have to or must not be subject to public consultation remains wide. The transparency of the process is not adequately ensured. (ii) No steps have been taken to develop the capacity of the Office of the Parliament to help MPs and parliamentary committees to prepare impact |

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| | | | | | assessments and conduct stakeholder consultations for the bills proposed by them. |
| 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>(i) Several significant laws were not published for public consultation in the period covered. 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. The quality of impact assessments is often inadequate. The way in which legislative drafts are published is superficial and only formally meets the requirements set out in the relevant act: purely technical amendments have been put on consultation, and the titles and summaries of the published legislative packages rarely indicate clearly the subject matter of the proposals. Therefore, it requires a serious investment of time and energy on the part of citizens and stakeholders to comment on draft legislative proposals. Moreover, the overwhelming majority of recommendations submitted are rejected by the Government without any real reasoning.</p> <p>(ii) The Government uses its excessive powers to issue emergency decrees (which are not subject to public consultation) extensively and in an abusive manner.</p> <p>(iii) Note also, that regardless of the milestones and remedial measures, the Government has also taken steps towards eliminating existing forms of social consultation, such as public hearings.</p> |

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 |
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| Independence of the judiciary ³ | | |
| Entry into force of legislative amendments to strengthen the role of the National Judicial Council while safeguarding its independence | partially | <p>(i) The judicial package adopted in May 2023 fails to ensure via transitional rules the effective exercise of the powers of the National Judicial Council (NJC) to give a motivated binding opinion on regulations. The law should ensure the effective exercise of this power by providing, among the transitional provisions, for a maximum initial period during which the NJC, endowed with new powers, should be able to review the regulations in question and exercise its right to consent.</p> <p>(ii) Legal provisions continue to allow the President of the National Office for the Judiciary to grant the position of presiding judge without an application procedure after the termination of the secondment of judges, allowing them to obtain a judicial leadership position circumventing the normal application system.</p> |
| Entry into force of amendments to strengthen judicial independence of the Supreme Court [the Kúria] | partially | <p>(i) The judicial package adopted in May 2023, while formally states that the Kúria President cannot be re-elected, does not change the current rules that allow a one-third minority of the Parliament to keep the Kúria President in office (as the Kúria President remains in office as long as their successor is not elected by a two-third majority). The new rules further narrow the pool of potential candidates for the President's position by modifications not required by the milestone.</p> <p>(ii) The judicial package fails to provide concrete guarantees of cases being assigned to judges without human intervention because it does not specify the objective criteria based on which the automatic assignment should be carried out (e.g., the order of arrival as an objective criterion). There are no objective criteria for the establishment of the chamber proceeding in the case (which is not per se the same as the bench hearing the case according to the judicial package), which makes it possible to manipulate the final composition of the bench hearing the case.</p> |

³ In the case of judicial independence, the measures required by the Commission's implementing decisions are fully identical with Milestones 213-216 under the Recovery and Resilience Plan.

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| | | (iii) The judicial package cements the composition of the uniformity complaint chamber without providing adequate guarantees for its autonomy and professionalism in decision-making. |
| Entry into force of legislative amendments to remove obstacles to references for preliminary rulings to the Court of Justice of the European Union | partially | The judicial package adopted in May 2023 abolished the procedural obstacles preventing judges from making a preliminary reference, but fails to address the substantive obstacle leaving effective and applicable the binding precedential decision Bt.III.838/2019/11. of the Kúria, which declares that a preliminary reference shall be deemed unlawful "if the request to initiate the preliminary ruling procedure does not concern the interpretation or validity of European Community norms". |
| Entry into force of legislative amendments to remove the possibility for public authorities to challenge final decisions before the Constitutional Court | yes | |
| 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>(i) Academic freedom set out in Article 13 of the Charter is still under threat in universities subjected to the new model of university governance. The Government has failed to introduce any changes regarding the selection, the eligibility criteria and the lifetime mandate of Board of Trustees (BoTs) members. No specific conflict of interest rules have been adopted regarding BoT's membership. The Government's only step in this regard was to informally pressurise those board members who hold a membership in the Government to resign from the board, which happened, however there is no legally binding requirement to prevent this conflict of interest scheme from recurrence.</p> <p>(ii) No legislative steps have been taken to improve the transparency and democratic accountability of the BoTs' operations. The current legal framework continues to allow the removal of the Senate's competencies regarding academic matters, which seriously undermines university autonomy. As a result, the dangers of direct or indirect executive or legislative influence over universities have not been mitigated.</p> <p>(iii) The model change of yet public universities remains on the Government's agenda, which could entail a further rise in the number of students studying within an institutional setting that fails to provide adequate guarantees for academic freedom. Refusing the model change, one university faced a questionable rectoral election procedure from the Ministry of Culture and Innovation.</p> |

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| | | (iv) Economic influence of BoT members also threatens academic freedom: at Corvinus University Budapest, a whistleblower teacher was fired with immediate effect in October 2023, after he called for an ethical procedure about the unfair academic favouring of a student whose parents are significant shareholders in the major – partly state-owned – oil company MOL, the same company whose director is the president of the BoT at Corvinus. In the ethical procedures, the responsible leaders got exempted (by the BoT in one of the cases). |
| 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. In June 2023, the Court of Justice of the European Union (CJEU) delivered its judgment in Case C-823/21 regarding the “embassy system” and found it to be in breach of EU law. Despite this, the Government submitted a bill to the Parliament in September 2023 that would extend the embassy system until the end of 2024. |
| 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 CJEU’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. |