**Integrity Authority**1115 Budapest

Bartók Béla út 105-113.

**Dear Mr. President,**

**K-Monitor Public-Benefit Association** is applying as an Organisation to participate in the Anti-Corruption Working Group. The Organisation proposes **Dr. Orsolya Júlia Vincze**, Legal Affairs Officer of K-Monitor Public-Benefit Association, as its representative in the Working Group.

**K-Monitor Public-Benefit Association** is an anti-corruption organisation founded in 2007, engaged in advocacy, research, technology development, participatory processes and strategic litigation.

The submission of the present application was preceded by a thorough deliberative process on the part of the Organisation. We find it inappropriate from the government to set up this working group after intensive anti-corruption legislation and not before, especially as no public consultation had accompanied the formulation of the anti-corruption measures adopted during the past few months. Given the limited mandate of the working group[[1]](#footnote-1), we have doubts about the effectiveness of its future activities, especially as we have not seen any proof of sincere intention on the part of the government underpinning the anti-corruption measures of recent months. In fact, in several cases we see the dilution and hollowing out of the commitments called for by the Union.

In 2012, K-Monitor was part of the government's former anti-corruption task force, which we left along with other relevant organisations after the government implemented a series of measures that made it more difficult to fight corruption[[2]](#footnote-2) and opened the way for the redistribution of public funds and assets along the lines of partisan political interest and political patronage. In the following years, this process has intensified, the country has become one of the most corrupt EU Member States according to perception surveys, and corruption in Hungary poses such a threat to the EU budget that the EU has created the special conditionality mechanism for instances where the financial interests of the EU are at risk in Member States. The creation of this working group is the result of this mechanism, as are the seventeen government measures currently being implemented in order to end the conditionality procedure. We see these measures as lacking in commitment and failing to address a number of significant corruption- and rule of law-related concerns. **K-Monitor's assessment is that these seventeen measures and their implementation still fail to safeguard EU and domestic funds and ensure the effectiveness of the anti-corruption framework.[[3]](#footnote-3)**

Given that over the past ten years there has been continuous government pressure on anti-corruption (and other) NGOs, and actors in and close to the government have sought to discredit our professional work in both the national and international public environment, it is a matter requiring particular consideration whether our participation in the working group would not merely legitimise the government's sham anti-corruption activities. We have decided to apply to the working group in the end as we see a possibility that the pressures created by the European Union and the risk of not receiving EU funds present greater incentives for the government than before to take measures that:

1) offer a chance to preserve and restore the independence of the judiciary,

2) contribute to public institutions responsible for the oversight of public funds and law enforcement to rely more on the power of publicity and to carry out their tasks with greater autonomy and effectiveness,

3) create opportunities for non-state actors (researchers, NGOs, the press) involved in the monitoring of public funds to carry out their analytical, investigative and public information activities under better conditions and with adequate data and information, and, where appropriate, to take legal action (public interest litigation, private prosecution) against corruption they have observed or detected. We also hope that the conditionality mechanism, the milestones linked to the recovery fund and regular monitoring linked to the adoption of the operative programmes and the disbursement of EU funds will be enough to enforce the implementation and sustained application of these measures. As an organisation that has been following and reporting on anti-corruption legislation in Hungary for more than ten years, we consider it essential to use the opportunity provided by the EU’s mechanism to present our suggestions and comments, and to ensure that the potential failure of anti-corruption measures is not a consequence of the lack of participation by K-Monitor. Our aim is to represent the views of Hungarian civil society and press in close cooperation with other organisations active in the field, independent of public authorities and economic interest groups, in order to create legislation and procedures that facilitate the oversight of public funds. We also aim to provide feedback to government bodies, the wider public and representatives of the EU institutions on the legislation, compliance and institutional reform that will take place in the coming period.

Within the working group, we shall attach particular importance to and consider the following conditions as prerequisites for effective work:

1. The working group should include non-governmental actors with relevant work in the field and with independent professional ideas (in particular Transparency International), and take into account the views of professionals and professional communities that are not members of the working group. It is of particular importance that non-governmental wg members do not include organisations that do not have a strong professional track record or whose independence from government is questionable, or whose funding is predominantly state-funded or opaque.
2. The working group should not replace broad public consultation required to adopt anti-corruption legislation and measures.
3. Access to information, data and statistics without which analysis and discussion of corruption problems is impossible should be provided (GRECO's fifth round evaluation report is not yet public).
4. The agenda should include the development and discussion of innovative and ambitious proposals in the following areas of key importance in the fight against corruption:
   1. the protection of whistleblowers;
   2. transparency and regulation of political finance;
   3. reform of the asset declaration system and the investigation of illicit enrichment;
   4. improved conflict of interest rules and appropriate regulation for the revolving door phenomenon;
   5. regulating lobbying, strategic partnerships and priority government investments;
   6. improving the transparency and accessibility of public databases (e.g. company registry, beneficial ownership registries, public procurement data, EU funds and state aid data, budget data, contracting data of public bodies, land registries);
   7. reinforcing broad access to data of public interest and improving proactive freedom of information practices;
   8. reforming the public procurement system, improving the procurement culture and strengthening competition;
   9. establishing the independence of public oversight institutions and improving their preparedness and effectiveness;
   10. effectively prosecute and sanction high-level corruption;
   11. joining the European Public Prosecutor's Office;
   12. ensuring the independence of the judiciary;
   13. creating adequate conditions for the recovery of public assets that have fallen victim to corruption;
   14. reforming the institutional and regulatory framework that manages and supervises the spending of EU funds and improving the integrity of public tendering procedures;
   15. generating public participation in decision-making (especially for women and social groups under-represented in decision-making);
   16. strengthening the integrity culture of public administration staff and widespread use of institutional integrity frameworks;
   17. extension of automatic decision-making (e.g. prosecution, court case allocation);
   18. develop mechanisms to measure the effectiveness and efficiency of anti-corruption measures;
   19. designing specific measures in areas particularly affected by corruption (construction, IT, health, public asset management, land tenders, concessions, sports subsidies).
5. The effective monitoring of governmental anti-corruption measures, the actions undertaken towards the EU’s financial interests under the conditionality mechanism, the identification of processes and legislation that constitute a risk of corruption and the publication of honest and critical reports on them should be achieved.
6. In addition, it is of the utmost importance that non-governmental actors should play a meaningful role in the drafting and follow-up of the new National Anti-Corruption Strategy to be established by June 2023.[[4]](#footnote-4)
7. The recommendations of the working group should be followed up with substantive government action in the six months successive to its establishment.
8. The working group should use intensive, clear communication to ensure public support by helping citizens acquire credible information on its work.

K-Monitor’s candidate, with the professional support of K-Monitor, wishes to participate in the working group by contributing to the agenda, formulating and developing proposals for necessary government action (in the areas listed and beyond), by reporting on the implementation of these proposals and by monitoring existing anti-corruption measures. We consider it an important task to establish dialogue with governmental actors, and we also consider it our task to channel in the opinions and positions of professional workshops and organisations active in the various fields relevant to fighting corruption in Hungary.

Sandor Lederer, executive vice president

1. For example, there is no declared obligation for the Integrity Authority to take into account the reports of the working group. Act XXVII of 2022 on the Control of the Use of EU Budgetary Resources does not provide for forms of cooperation among the members of the working group in between the meetings of the body, and it is not clear whether the members will have access to critical information necessary for the analysis and assessment of the anti-corruption state of play. [↑](#footnote-ref-1)
2. One such example was the 2013 amendment to the Freedom of Information Act, which introduced the concept of abusive data requests. [↑](#footnote-ref-2)
3. Conditionality mechanism: NGO assessment of remedial measures at <https://k-monitor.hu/article/20221118-conditionality-mechanism-ngo-assessment-of-remedial-measures>. [↑](#footnote-ref-3)
4. However, it is important to note here that while the Commission's proposal COM(2022) 485 states that the Government has committed that the "Anti-Corruption Task Force will participate in the development of the National Anti-Corruption Strategy and Action Plan and its implementation, this is not explicitly included in the tasks of the Task Force in Act XXVII of 2022 on the control of the use of EU budgetary resources. [↑](#footnote-ref-4)