

Public administration in Hungary – Introduction and two short case studies

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Introduction

This paper is a background material for the visit of experts and civil servants of Belarus and Ukraine in the Visegrad countries. This project aiming at strengthening the capacity of public administration in and fostering ties among the related countries puts emphasis on issues such as effectiveness of public administration, de-centralisation of government competences, human resource management, and e-government.

Given the time constraint of the preparatory phase and the volume constraint of the documents requested by the project leader, we think it would be too ambitious to cover all the issues mentioned above in a comprehensive way. Instead, we propose the following:

- First, we present the Hungarian context by giving stylised facts on the country and a brief overview on the on-going state reforms launched by the recent government in 2010.
- Second, we focus on two cases, which we think may highlight lessons and good examples with respect to evaluating the effectiveness of public authorities, human resource management, and civil ethics.

I. Stylised facts

Box 1: General facts

Population: 9.971 million (2011)	Capital: Budapest (2,2 million inhabitants)
State structure: Unitary	Number of counties: 19 (<i>megye</i>)
Legislature: Unicameral	Number of urban counties 23 (<i>megyei város</i>)
Type of government: Parliamentary democracy	
President of the state: János Áder (since 10 May 2012)	Number of ministries: 8 (2013)
Head of the government: Prime Minister Viktor Orbán (since 29 May 2010)	Number of governments over last 20 years: 9
	Number of coalitions over last 20 years: 9
	Member of the European Union: since 2004
GDP: USD140 billion (2011, current USD)	Gov.consumption: 15 % (2011, % of GDP)
GNI per capita: USD 19800 (2011, PPP)	Labour force: 4.178 million (2011)
GDP growth rate: -1% (2012 est)	Unemployment: 11.2 % (% of labour force)
Public budget: 52% (2012, % of GDP)	Distribution of family income (Gini index): 24.7 (2009)
Budget deficit: -2.7% (2012, est)	Life expectancy at birth: 75 years
Public debt: 81.3% (2012, % of GDP)	

Sources: Basic Law of Hungary, OECD 2012, National Statistical Office online database

Legal structure

Legislative branch

The unicameral National Assembly (*Országgyűlés*) exercises legislative power, it has 386 seats; members are elected by popular vote under a system of proportional and direct representation for four years. Last election was held in 2010, turning out to give qualitative majority to the recently ruling government party, FIDESZ (52,7%, right-wing-nationalist party in coalition with the KDNP, Christian democrats). Parties with 5 % or more of the vote required for parliamentary representation were: MSZP (19.3%, social democrats, post-communist party), Jobbik (16.7%, extreme right-wing party), LMP (7.5%, green party). The Parliament enacts legislation based on a majority rule of the votes. The President, the Government, all Parliamentary Committees, and individual members of Parliament may initiate legislation. The later one became the dominant way of enacting and/ or amending laws since 2010. The President usually ensures promulgation of the law within a period of fifteen days, though the President may refer the law, with comments to the Parliament for reconsideration. In the first two years of the recent government cycle the President has effectively not applied this check upon the Parliament.

Executive branch

Central level

The National Assembly appoints the President for a five-year term for a maximum of two successive terms. The President is elected by two-thirds of legislative vote.

The National Assembly elects the Prime Minister (PM) on recommendation of the President. Cabinet of Ministers is proposed by the PM and appointed and relieved of their duties by the President. The recent government consists of the PM and nine ministers (interior affairs, defence, public administration and justice, foreign affairs, rural development, national economy, national development, human resources, and one delegated to lead the PM's office).

Local level

The Basic Law of Hungary defines the territorial administrative division of the country. As a consequence of the state reform launched by the recent government, the country is partitioned into administrative districts (*járás*) and settlements (*település*). Local governments are constituted in settlements above a certain size, and the new law on local government (in effect from 1 January 2013) determines the administrative districts. According to the new regulation, these mezzo-level units shall take over a bunch of public services previously provided at the local level. The number of the newly established administrative districts is 168 (*cf.* the number of local governments is around 3200); its tasks and competences cover relatively wide range of public services (some social services – e.g. early childhood education and care, family policy, child protection, certain public education tasks, animal health control, motoring offences, etc.). There shall be a restructuring of public administrative capacities and ca. 40% of the local-level government tasks is going to be delegated to the new administrative districts (see to the 23 new offices in Budapest and to the 175 offices off the capital).

Judiciary branch

The country's court system is based on three levels: Constitutional Court, Curia, and regional courts of appeal. The Constitutional Court was established in 1989 when the transition from the communist regime had just started. The National Assembly elects judges for nine-years terms. It reviews the constitutionality of laws. In case any law or secondary legislation found unconstitutional, the

Constitutional Court may annul it. The Court may also examine disputes concerning competence between organs of central administration. The rather liberal jurisdiction of the Court was severely restricted by the new Fundamental Law, enacted in 2012 and in effect by 1 January 2013.

The Curia is the highest court. The National Assembly elects the head of the Curia. The Curia ensures the uniformity in application of law by inferior courts (local courts, district courts). It sets guidelines, issues directives and decisions which of the latter are binding for all courts of the country. Other judges are elected by the President on recommendation of the head of the National Office of the Courts, which is a central body in charge of courts' administration. The country's legal system is strongly influenced by the German model.

Political context

Political parties, pressure groups

There are five political parties represented in the Parliament: the ruling coalition of the Fidesz-Hungarian Civic Alliance – Fidesz and the Christian Democratic People's Party - KDNP; and the opposition parties (Hungarian Socialist Party – MSZP, Movement for a Better Hungary – Jobbik, Politics Can Be Different – LMP).

Several partisan organisations have been formed in the last two years engaged in active pro- or contra-government mass actions, and some of the typical, democratic pressure groups – e.g. those oriented for example at environmental issues or protection of human rights – turn to be also even more active parallel to the state reform of the recent years.

Ombudsman, NGOs, Civil Society

The office of the General Ombudsman was established in 1993. His main task is uncovering breaches of human rights, data protection, freedom of information, and rights of ethnic minorities. The position is described as a Parliamentary institution. In case of violation, the Ombudsman may give non-binding recommendations. There were four commissioners before 2010. The tasks of the commissioners was integrated in 2010, and the recent post of the General Ombudsman has emerged due to the fundamental state reforms launched by the FIDESZ government in 2010. In spite of the restructuring of the post, the Ombudsman has still kept considerable power of investigation in accordance with the Scandinavian model. The Ombudsman may turn to any other institution to ask for information and data, may investigate cases upon formal or informal notice, and examine documents.

The Hungarian civil society organisations experienced two decades of steady growth and learning since the passage of laws on the creation of legal foundations and on freedom of association and assembly in 1989. There has been a significant growth in the number of organisations active in the civic initiatives. Official data indicates that ca. 65 000 organisations had been registered in 2010 (see, KSH 2010). This number would suggest a highly active civil sector, the independence and the non partisan operation of these organisations is strongly questioned by some experts (Kuti 2011, Jenei 2010)

Several public policy institutes have emerged since the transition. Two major kind of organisations can be identified among them: ones providing partisan political analysis, and others running economic analysis and conducting public policy research.

Public administration

There were several initiatives in the last decade to reform the Hungarian public administration. Lack of continuity over political cycle, fragmented measures, and intermittent implementation are the best characteristics to describe those initiatives. Nevertheless, some of the past reform steps are still in place – such as:

- Mapping competences at the central government level (i.e. compilation of public employees' scope of activities and skills in form of competency maps)
- Menu of competency trainings (co-financed by the EU structural funds)
- Introduction of a new civil service examination system
- Isolated institutional examples of introducing strategic management (incl. performance assessment).

The strategic plan of recent government ideas on how to reform the public administration system is manifested in the sc. Magyar Programme. The programme defines the following priority areas for reforms:

- Introduction of strategic management in the public administration
- Development of a life-long career-based system
- Renewal and standardisation of the performance assessment system
- Streamlining the recruitment model of civil servants
- Improving professional skills and competences of civil servants
- Improving ethical standards (introduction of a general code of ethics), and
- Fighting corruption

Next, we present the legal framework and provide a state-of-play w.r.t. The main elements of the recent system.

Legal framework

One of the main elements of the recent reform is that the Civil Service Act of 1992 was replaced by a completely new regulation in 2012 (Act CXCIX on public services officers, hereinafter, the Act). The Act redefines the legal status, duties and rights of the employees at the central and regional/ local government level as well as at other government offices (such as, e.g. the State Audit Office, the sectoral regulatory agencies, the Competition Authority).

The new Act introduced several changes to the framework regulation on public service officers, though some elements have not been changed compared to the previous regulation:

- Its scope refers to all civil servants in the public administration, employed mostly by fixed-term contracts without providing guarantees in favour of life-long employment.

- Public service officers are entitled to partial funding of social security and some funding of pensions, and they enjoy various guarantees about job protection.
- The regulation leaves room for employment under the general labour law (typically in case of technical support staff).
- Public services are based on a mixed, seniority and performance-based promotion system, and the regulation still emphasises a non-partisan civil service.
- The public officer status is offered as a special contractual relationship between the State (central/local government) and civil servants.

The Act provides the rules of recruitment, promotion and remuneration, and provisions w.r.t. Performance assessment.

Recruitment

Applicants may enter the public service *via* direct applications and position-specific interview. One element of the recent public administration reform is the introduction of a general entry examination, organised by a central unit (Assessment and Development Centre). Usually, posts are open to external applicants, but practices vary since there is no statutory obligation for openings to be published.

In the framework of EU co-financed employment schemes, there were some initiatives in the past years to give special assistance to disabled and Roma people to become public officer. Though the special measures are not closed yet, mid-term results are mixed (for further details, see Hétfa 2011)

Promotion, training

Promotion decision in public bodies is dependent on three factors: seniority, qualifications and performance assessment. Formally for all posts education level is the main checkpoint, accumulated work experience and good performance serve as significant bonuses.

The National University of Public Service provides basic training, as required for the mandatory examinations, and several special training opportunities are offered by the State Reform Operational Programme co-financed by the EU Structural Funds (see, courses on performance measurement, evaluation and impact assessment of public policy measures, civil ethics, etc.).

Remuneration

There is a standardised pay scheme throughout the civil service. The base salary is fixed by the Act, and the menu of fringe benefits and bonuses are also pre-determined. Due to a reform step back to 2001 general pay level was significantly increased, though freezes to gross wage bill were repeatedly introduced in the last years, as part of the governments' fiscal consolidation plans.

Usually, educational qualification and age are the most important factors determining base salary, though final payment may strongly vary in individual cases in dependence of job content, seniority in the position, and performance to some extent.

In general, public employees (see for example teachers, nurses, etc.) are less well paid than civil servants (partially due to a restricted number of fringe benefits to public employees, UN 2004).

Performance

Public administration in Hungary is moving slowly towards a more performance-oriented system. Several initiatives in the past aimed at introducing performance assessment (the most ambitious, related project was launched in 2006). While the pay system has elements linked to performance (which may vary the

base salary in the range of 20% in both positive and negative directions, see OECD 2012), in practice pay levels differ significantly across authorities, central and local agencies.

Almost all employees are assessed on a regular basis, in form of written assessment and personal meeting with the direct superior. One of the recent reform steps is to streamline the system by developing electronic, real time feedback solutions. Lists of assessment criteria is long, covering work load, quality of outputs, cost effectiveness, values and ethics, and competencies, though definition of these criteria and their significance in individual cases may vary. Performance is more influential in case of top and mid-level managers and high-ranking officials than in case of secretaries and technical support. (Hazafi 2012)

HR Management

Centre of Human Resource Management for Public Administration (thereinafter, HR Centre) of responsible for designing HR policy – that means, developing HR knowledge base, provision of related services, administering and managing application and selection processes, fine tuning performance assessment framework, developing an integrated HRM IT system, and operating the trainee programmes. Some competences are shared between the HR Centre and the line ministries – such as for example budget allocation, bonuses and the number and allocation of administrative posts. The central body also has a co-decision role in dismissal due to centrally coordinated restructuring of the public authorities.

Line ministries and government agencies manage post classification, recruitment, and career management. There were attempts in the past to design and implement HR management in a more strategic way by appointing government commissioner for central government-level coordination (2006) or by launching pilot projects for mapping individual competencies and introducing accountability framework for managers (2007). These initiatives turn to be *ad hoc* steps without continuity over political cycles.

eGovernment

Information society, digital literacy, electronic public services are hot issues on the political and administrative agenda since 2000 in Hungary, when a separate government commissioner was appointed to promote e-government and to launch pilot projects at the central level. More than a decade has been past and results are fairly mixed. Though there is no regulatory deficit (see regulations on data protection, freedom of information are in place), and since 2007 there is a special programme financing e-government projects (see Electronic Public Administration Operational Programme co-financed by the EU Structural Funds), implementation and diffusion of e-services in the public sector still lag behind in international comparison.

Regulations and policies are in place w.r.t. Recognition and application of digital signature and electronic filing, the overall e-Government Readiness Index of Hungary is below the EU average. On the one hand, public administration lacks sophisticated web-based services, and even in case of such developments minority of citizens and businesses do not use those services on a daily basis (EKOP 2007). On the other hand, the government websites (recently completely re-organised) offer restricted and strongly selected information on policies, programmes, statistical information and budget data (Tóth et al 2011, BI 2012). Recent development plans call for obligatory application of digital signature from 2014 onwards and speeding up of the implementation of the EU co-financed e-government projects.

Public procurement is one of the crucial areas, where e-services are fairly underdeveloped. There is neither any single entry site for searching tenders and looking after tender information, nor there is an opportunity to track decisions and project results or even to download transaction-level information. (BI - K-Monitor 2012).

Instead of continuing with the general overview on past and recent reforms of the Hungarian public administration, we think it would be more useful to focus on two concrete stories, which demonstrate good practices and provide lessons in the topics given by the project partner in Belarus and Ukraine (see, effectiveness of public administration, decentralisation, HR management, civil ethics, and e-government). The first case is a central project though reaching out to the government units and organisations at the local level, and it aims to introduce a new ethical approach in the Hungarian public administration. The second case gives insights into a long-term, institutional development process overarching more than a decade what is exceptional in the Hungarian public administration. It provides good example for a consistent, strategy-driven institution building.

II. Case studies

Case Study 1: The Hungarian State Audit Office – Integrity against Corruption Project

General overview

The Hungarian State Audit Office (SAO) is the main financial and economic audit institution of Hungary. State audit offices existed in Hungary from the late XIXth century, overseeing at first the joint military and foreign affairs spending of the Habsburg Monarchy, and later the management of public funds and national properties. The SAO was re-established in 1989 as one of the basic institutions of the new, post-communist state, and as such one of the main guardians of the democratic order. Its statutory task is to support the lawful, appropriate, efficient and cost-effective management of public money and property and to promote good governance (SAO Strategy 2011)

The SAO is also the audit body of the National Assembly. It operates under the regulations of the Basic Law and special laws (see the recently amended Act LXVI /2011 on the State Audit Office and the Act CXCV/ 2011 on the economic stability of Hungary). The SAO is only and directly accountable to the National Assembly.

The SAO launched a new, short-term strategy in 2011, listing the Office's main goals and tasks running up to 2015. The mission of the SAO is to contribute to and promote good governance and transparency and accountability of public procurements by producing professional and value creating audits and recommendations (SAO Strategy 2011:3). Hungary has faced considerable economic and social challenges in the last period: the global economic crisis in 2008 hit the country's economy severely, public finances are far from transparent and credible, and trust in government institutions is very low (OECD 2012b).

The on-going state reforms launched by the recent government since 2010 contribute rather than minimise the uncertainty for both the public and the private sector. Consequently, the SAO's biggest challenge is to follow and respond to the recent structural reforms, and at the same time, to develop its own internal organisation in accordance with these changes.

The work of the SAO is in line with the principles of the main international supreme audit bodies such as the International Organisation of Supreme Audit Institutions (INTOSAI) and European Organisation of Supreme Audit Institutions (EUROSAI). “*Our primary objective is that with our findings and recommendations we assist the regular, economical, effective and efficient management of public funds and property and that we contribute to the establishment of a well-managed state, to good governance.*” says the recent president of the SAO, László Domokos (SAO Pamphlet; 2011: 1)

The ‘Integrity against Corruption’ project

Brief summary

In addition to the evaluation of the public finance system and the management of public funds, in the past years the SAO shifted its attention towards fighting and preventing corruption, as well. While this is not among the basic duties of the Audit Office, it derives directly from its mission (*cf.* promoting transparency and good governance, maintaining the competitiveness of the country). In 2008 a Governmental Decree called upon the Office to pay attention to the causes of corruption and the policy areas most affected by it. This was the first impetus for the SAO to launch anticorruption projects – among others, for example a collaboration with the Dutch State Audit Office. Based on this experience, in 2009 the SAO started the so-called ‘Integrity against Corruption’ (IAC) project to map the corruption risks in the whole public sector.

Table 1. Short summary of the IAC project

Title:	Mapping Corruption Risks - Strengthening Integrity Based Administration
Project Owner:	State Audit Office of Hungary (SAO)
Funding:	State Reform Operational Programme (<i>ÁROP</i>), managed by the National Development Agency, as part of the New Hungary Development Plan
Sectoral scope:	General Public Sector
Main output:	Online Integrity Portal (www.integritas.asz.hu)
Duration:	2009 – 2012
Total budget:	286.540.000 HUF (1,05 million EUR, at 2009 price level)
Ratio of EU subsidies:	100%

Source: IAC website: <http://integritas.asz.hu/asz>

The IAC is the main anticorruption project of the SAO. The main goal of the project was to map corruption risks within the public sector in order to strengthen the transparency and accountability of public institutions. The project introduced the sc. integrity approach new to public decision makers at that time and also to the general public.

Following the experiences in the Dutch twinning project, the IAC was meant to estimate the corruption risks of public institutions in Hungary *via* surveying relevant institutions (an electronic survey was sent to appr. 4200 public authorities). The survey questions focused mostly on public procurement, management of EU funds and granting of administrative licences – areas considered as most affected by corruption. (Corruption Risks Survey; 2011) Based on the survey results, a comprehensive database was constructed. As next step, independent experts calculated the corruption risks and internal control indexes of each institution represented in the database. The results were presented on a map – one of the main outcomes

of the project. The database offers further opportunities for comparison (regional, sectoral, or institutional). During the project period two surveys were completed, and the plan is to continue for the next five years, resulting in seven reviews altogether.

The IAC, by its full name ‘Mapping Corruption Risks - Strengthening Integrity Based Administration’ project, lasted for two and a half years (from 2009 till 2012) with a total budget of 286.540.000 HUF (1,05 million EUR), funded entirely by the European Union and the European Social Fund.

Target groups

The project directly targeted 4200 public institutions and those individuals – managers and employees of these institutions – who participated in the seminars, conferences and trainings organised during the project. The project covered all public institutions at central government level and the mayor’s offices at the local level. Less than half of the contacted public institutions sent back the completed questionnaire (1.095 institutions).

Several summaries, leaflets, short reports and the online database itself are available to the broader public as well.

Project rationale

The IAC was set out primarily to induce change in the administrative culture of the country and improve public officials’ attitude towards corrupt activities. National and international studies indicate that public perception on the level of fraud and corruption in the public sector is worsening.

Box 2. Reviews on corruption and transparency in Hungary

According to Transparency International’s 2011 *National Integrity Study* (NIS) Hungary’s democratic system is threatened by the possibility to exercise political influence over public institutions, especially since the last elections in 2010 when the government obtained a two-thirds majority in Parliament. NIS authors are concerned about the independence of control institutions such as the Constitutional Court, top officials of the State Audit Office, the Prosecution and the National Media Agency. The opaqueness of political campaign financing and the lack of transparency of public institutions represent the main corruption risks. Although some integrity measures have been taken, the protection of whistleblowers, a comprehensive code of ethics (including rules on conflicts of interests, gifts, hospitality and post-employment restrictions) as well as anti-corruption trainings are missing.

Hungary is rated by Transparency International to be somewhere in the middle-to low part of the scale measuring the world’s countries’ anti-corruption efforts. On the *Corruption Perception Index*, a composite index ranking 176 countries based on how corrupt their public sector is perceived to be, Hungary scored 55 (on a scale of 0-highly corrupt to 100-very clean). This places Hungary 46th, preceded of course by very transparent countries such as Denmark, Finland or New Zealand (sharing the lead), but also by neighbouring Austria (25th) and Slovenia (37th) and fellow Easter Europeans such as Estonia (32nd) or Poland(41st).

According to the World Bank’s Worldwide Governance Indicators the *control of corruption* in Hungary is relatively poor. On their scale of -2.5 to 2.5 measuring perceptions of the extent to which public power is exercised for private gain Hungary managed to score 0.32.

Also the financial secrecy is very high in Hungary, the Tax Justice Network’s *Financial Secrecy Index*, identifying and ranking jurisdictions according to their level of financial secrecy and their share of the global market for offshore financial services, places Hungary 56th in a list of 71 countries.

Source: Transparency International: National Integrity Study, 2011 / Transparency International: Country Profiles, Hungary: http://www.transparency.org/country#HUN_Overview

The integrity approach was totally new to the general public as well as to the political decision makers and to the public service officials. Thus the IAC started as an innovative project, and it was also used to benchmark public institutions participating in the survey. The surveys conducted since 2009 and data

collected serve also as baseline information for future audits of the SAO or other related projects. The IAC project advocates for a more open public sector by raising public awareness on open government.

The project aims primarily to measure and map corruption risks. Secondly, however, it was also designed to help the public institutions to diminish those risks by providing training for their employees and managers. Several conferences and workshops were organised throughout the country to inform not only those affiliated with the evaluated institutions, but academics and journalists as well.

The project is part of the SAO's strategy and it was intended to improve the Office's audit activity by developing its audit methods and integrating anti-corruption aspects into the audit guidelines. In order to disseminate the results of the project the SAO prepared a report for the government summarising lessons, policy recommendations, and suggesting regulatory changes w.r.t. the SAO's competences. (SAO 2012) Another report published in March 2012 provides specific recommendations for public authorities with legislative competences about how to strengthen integrity in their work. (SAO 2012b)

Project activities

The project started with a preparation phase in 2009 when the Dutch integrity methodology was adapted to Hungarian context and the online questionnaire was elaborated. Independent Hungarian experts were invited to participate at this conceptual phase.

Prior to the actual research, the SAO officers developed the web-based support system of the project, and they run pilot projects in the testing phase. A multi-purpose, electronic data collecting and processing application platform was developed in the first year. It combined different modules necessary for the online data collection and processing. Elements of the platform are: geographic information system, online questionnaire, evaluation framework, and a special module on the methodology applied (see for example, definition of terms and thematic glossary, technical notes on how the different elements of the institutional integrity should be taken into account, on how to measure corruption risks, on sampling methods, etc.). A special help panel supports users (and analysts), and the archived data is available online (<http://integritas.asz.hu/statisztikak>).

The methodology was constantly refined from the pilot throughout the research phase. The mid-term results were published in annual project reports (SAO Report 2010, 2011, 2012). SAO auditors received trainings (research methodology, interpretation of results), and the Office has run its own risk assessment. This latter was meant to improve its own audit methodology in line with international best practices and also to provide good example for and urge other public institutions to use risk assessment methods regularly in the future.

It was crucial to keep target groups and interested third parties engaged in the project by periodically informing them about the project *via* sc. "regional road shows", on site meetings (with high ranking officials and top managers of the related institutions) and forum organised for professional interest groups.

The data collection itself started with running a test and then collecting data by the means of the electronic survey. 4200 public institutions have been contacted to complete the online questionnaire. The

survey consisted of about 150 questions covering institutional facts, perceptions on corruption opportunities, internal and external factors, and the level of protection against corruption threats (i.e. internal control mechanisms). The completed forms could be uploaded to the SAO's customer portal. The online system has automatically integrated the data into a database. For each institution – based on the previously developed methodology – indexes on corruption and internal control mechanism were computed. These indexes were then transferred to an electronically available map. The system managed the data anonymously, only the aggregated indexes were published on the map.

Based on the experiences of the project on- and offline teaching materials were prepared and countrywide trainings were organised for auditors and civil servants. In 2011 an international seminar was organised with the participation of 40 auditors and civil servants from EUROSAI member states in order to present first results and to share anti-fraud and anti-corruption experiences.

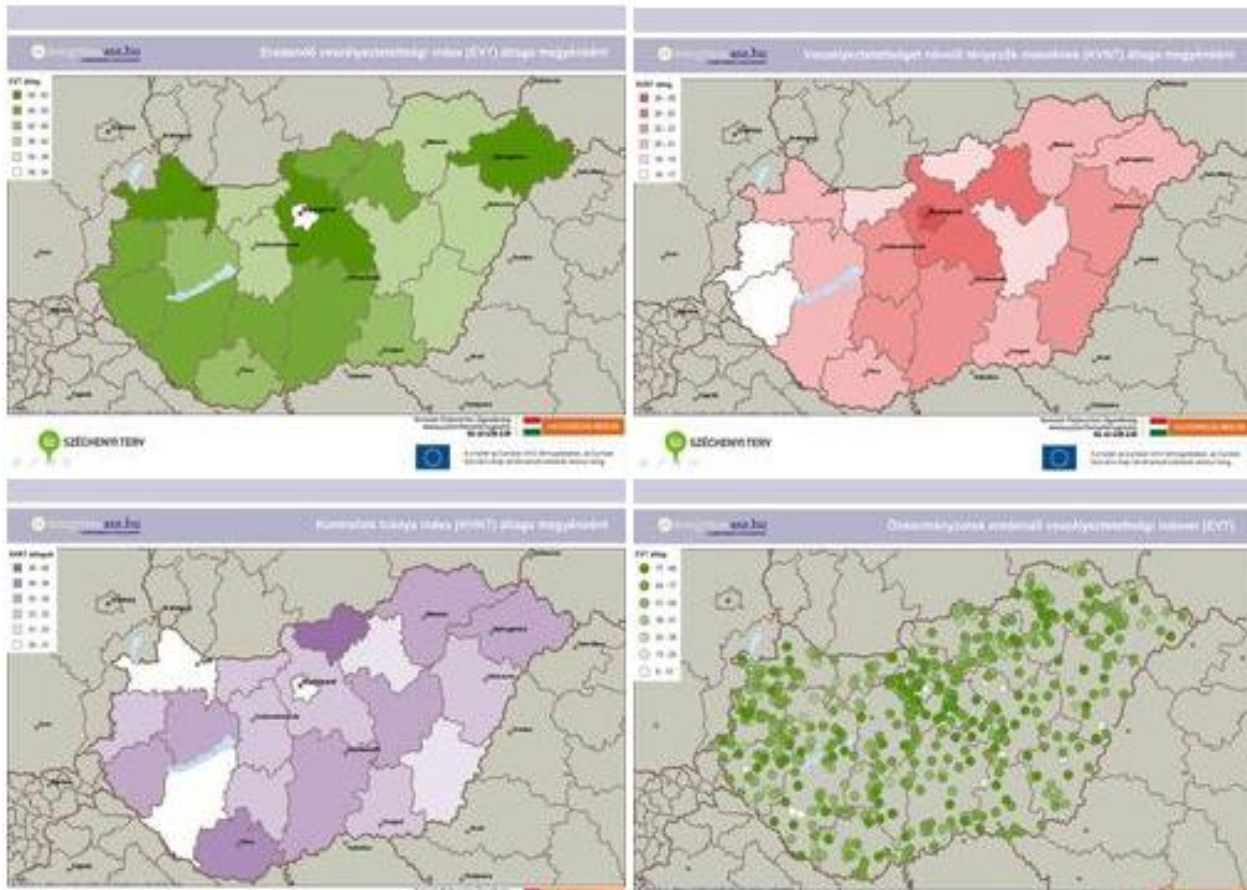
The follow up of the project is to repeat data collection and institutional assessment every year for the next five years.

Tools and project results

The online Integrity Portal (www.intagritas.asz.hu) was developed to collect data, inform and disseminate the project results, and to communicate with the institutions involved. The portal is also the interface for assessment and visualisation of the institutional performances. The main function of the portal is the automatic survey management, which consists of receiving the uploaded survey forms, registering the collected data, running assessments in the database, and publishing results on an online available map.

The corruption risks map is the main visual instrument of the IAC project. The map shows the results of the data assessment process, permits detailed search based on the type of the respondent institutions, the sector they are active in, and different territorial levels.

Graph 1. Selection of corruption risk maps



Source: integritas.asz.hu/terkepek

The Integrity Portal offers also information on the progress of the project. It provides reports, summaries and other informational material about the project.

The results of the first survey were summarised in the Integrity Report published in April 2011. According to the report in this first round of data collection the SAO contacted 4.200 institutions to participate, out of which 1.095 completed the online questionnaire (26% answer rate). The respondent institutions cover 208.067 employees of the Hungarian public administration and their public expenditure sum up to 2.238 billion HUF. The larger institutions were more active in completing and sending the surveys to the SAO's portal. 530 (44%) of the completed surveys were received from local governments. Government authorities (ministries, regional and local governments) were more active (with respondent rate between 56 and 65%) than cultural and educational institutions (17%, SAO Report 2011)

The main result of the first data collection process was the calculation of the corruption risk indexes at the institutional level and visualisation of these indexes on the online maps. These indicators serve as a baseline for the future surveys and SAO audits.

There are three main indexes: the Inherent Vulnerability Index (IVI), the Enhanced Factors Index (EFI) and the Lack of Controls Index (LoCI). The IVI was highest in the case of local governments and

independent government agencies (e.g. the State Audit Office, the Prosecution Service, the Public Procurement Council, the Office of the National Assembly and the Hungarian Financial Supervisory Authority). Next cluster was composed of administrative bodies at the regional and local level (some examples: Environmental and Water Directorate of the Lower Danube Valley, Government Office of the Békés County, the Directorate of Museums in Békés County), and police and national defence organisations. Higher education organisations and independent government agencies had the highest score in EFI.

The LoCI was calculated for two separate groups. Among the organisations providing public services the highest risks are seen, in order of threat, at sport and leisure organisations, nurseries, kindergartens, elementary and high schools, social institutions, health institutions, scientific and research institutes, and higher education organisations. In Local governments and government institutions score the highest LoCIs among the public administration bodies. Territorial administration bodies, police and national defence organisations, judiciary, and independent government agencies seem to perform relatively better regarding public control. (Report; 2011)

The findings of the IAC project proved the initial hypothesis formulated in the preparatory phase: namely, all indexes show that the local governments and government organisations are most exposed to corruption risks, and higher education organisations should deal with most of the factors contributing to corruption. Corruption risks vary the most at the institutional level, territorial variation is not significant (SAO Report 2011)

The results of the second survey in 2012 were published in the second Integrity Report in December 2012. In this phase 5.288 institutions were asked to participate, out of which 1.001 responded. The slight drop in the number of respondents may be caused by on-going structural reforms in the past year. Like in the first survey, government organisations and local governments were the most active (60% and 50,7% respondent rate, SAO Report 2012). The results of the second survey repeated and confirmed the results of the first round. The results of the second questionnaire demonstrate that uncertainty in the legal framework; in public finance and the restructuring of the relevant organisations enhance corruption risks significantly. The 2012 report concludes that corruption vulnerability of the participant institutions has increased.

Assessment of the case

Finally, the table below summarises why we think that the IAC project may provide lessons and good practices for colleagues and decision makers in other countries.

Table 2: Assessment of the IAC project

Field of interest	Relevant lessons and best practice
Decentralisation of tasks and competences	<p><i>The integrity approach is built on the principles of decentralisation and subsidiarity,</i></p> <p><i>The project strongly relied on the participation and motivation of government authorities at the local level.</i></p> <p><i>The qualitative and quantitative results (e.g. corruption risks and indexes) may induce yardstick competition among public authorities of similar type (see, local governments, decentralised gov. bodies).</i></p>

	<i>Providing periodic information on the financial and operation data of public institutions is a strong case for enhancing transparency and accountability of the public sector. It may facilitate democratic control – especially, at the local level.</i>
Human resource management	<p><i>One of the SAO recommendations is to integrate the integrity approach into the institutional strategies and annual work plans. In case, it can also be part of the performance assessment at the institutional level.</i></p> <p><i>The project provided several opportunities to participate in trainings, workshops, national and international conferences discussing the idea of accountability, transparency in the public sector.</i></p> <p><i>The project aimed at shaping the bureaucratic agenda by bringing forward new concepts and ideas.</i></p>
Ethics	<i>One of the main recommendations was that public authorities managing public money have to elaborate their own code of ethics – without further ado.</i>
eGovernment	<p><i>The implementation of the project was entirely supported by electronic and online solutions:</i></p> <ul style="list-style-type: none"> • <i>Online data collection and processing</i> • <i>Online presentation (e.g. interactive maps as visual tools)</i> • <i>Online communication and dissemination</i>

Case study 2. Hungarian Competition Authority – Strategy-driven institutional development

General overview

The transition has brought about fundamental changes in the Hungarian economy. The shift from the centrally planned economy to market economy has though started already before 1989, the liberalisation process accelerated in the 1990s. The Hungarian Competition Authority (HCA, *Gazdasági Versenyhivatal*) was among the first independent government agencies to be established following the first democratic elections in 1990. The main mission of the authority is to guard and promote fair competition in the market sectors and to promote competition culture. The story of HCA was one of (rare) examples for systematic institutional development through out the last decade and a good case of professional work and political independence. The HCA stands out among the Hungarian government agencies with improving professional goodwill and reputation, also in international comparison (see the improving scores of the HCA in the international ranking of competition authorities by the Global Competition Review, GCR 2008, 2009)

The main tasks of the HCA are:

- Enforcing the provisions of the Competition Act (with special focus on the prohibition of agreements containing horizontal and vertical restraints, and on abuse of dominance)
- Advocating competition by delivering opinions on relevant legislations, taking part in the preparation of new market regulations
- Promoting competition, competition culture.

In addition, the HCA is active in disseminating knowledge and information on current competition rules by translating and publishing manuals, technical notes, supporting academic research in the related fields, and organising and sponsoring communication campaign on benefits of competition.

Legal Framework

The Competition Act (LVII/1996) defines the legal status, the competences of the authority, and it determines the operational framework (organisational structure, procedures). The Competition Act was amended several times since entering into force in 1997. The most crucial package of amendments was initiated in 2004 due to the accession to the European Union. The most relevant changes are listed in the table below.

Table 3. Changes in the regulatory framework

Date	Amendments to the Competition Act
2000	<ul style="list-style-type: none"> - Changes in the field of substantive law and procedural rules „inquiries into sectors of the economy offer possibility for the OEC to obtain information on ‘suspicious’ markets, consequently the competition authority may ask for information without initiating formal proceedings in order to get knowledge of facts in the background of certain market processes” (GVH Annual Report 2000:5) - The possibility for the competition authority to inquire sectors of the economy was created, the investigatory powers of the competition authority have been strengthened, by introducing the possibility to search private homes and cars (nevertheless the use of this possibility requires a preliminary court judge authorisation)
2005	<ul style="list-style-type: none"> - Reorganisation of the system of complaints distinguishing between complaints (made by submission to the GVH of a properly-completed form issued by the GVH) and informal complaints (submitted in any other way introduced the possibility of private enforcement)

	<ul style="list-style-type: none"> - Abolishment of the individual exemption system - Modification of several procedural rules
	<ul style="list-style-type: none"> - Extension of GVH's competence in the field of consumer protection as consequence of EU harmonisation (2005/29/EC Unfair Commercial Practices Directive, UCP)
2009	<ul style="list-style-type: none"> - Harmonisation with EU Services Directive (2006/123/EC) - Authorisation of concentration: instead of the earlier „dominance test” the GVH is obliged to use „efficiency-test” also applied by the EC-ensuring equal European treatment to the undertakings interested in the merger, on the other hand to ensure that the merger's effects on competition are properly assessed, therefore in the future the GVH will also examine the application of undertakings for authorisation of concentration in order to see whether they reduce competition on the relevant market - Change in the leniency policy (in fight against cartels): encouraging undertakings to self-report, that means, giving opportunity for undertakings involved in a cartel to self-report and hand over evidence, first immunity of fines or a reduction of the amount of fines (GVH Annual Report 2006)
	<ul style="list-style-type: none"> - Introduction of new leniency policy: encouraging undertakings to self-report→ it gives the opportunity for undertakings involved in a cartel to self-report and hand over evidence first immunity of fines or a reduction of the amount of fines - New rules on transparency and legal certainty concerning the lodging and handling of leniency applications - Strengthening enforcement power of the HCA (increased power in the field of fights against cartels) - Promotion of competition culture and consumer culture, as new competence (max. 10 per cent of the total average amount of fines collected must be spent on activities to support EU related competition culture and consumer culture)

Sources: *GVH Annual Reports 2000-2010.*

Apart from the Competition Act and the related EU directives there are other legal norms containing competition-relevant provisions. For the list of these norms see Table 1 in the Appendix.

Organization

The Hungarian Competition Authority is an independent, government agency which is accountable to the National Assembly and which has a separate chapter in the central budget. The president of the HCA submits annual reports on the activities of the authority to the parliament. Core part of these reports summarises the law enforcement results and experiences of the agency and provides details on developments of competition in the market sectors.

The president of the HCA is appointed by the President of the Republic, upon the proposal of the Prime Minister. The president of the HCA (together with the president of the Competition Council) may issue nonbinding guidelines, and he may initiate investigations. Two vice presidents support the operation of the authority, both of them appointed by the President of the Republic, upon advice of the Prime Minister. One vice president is responsible for the operation of the Competition Council (CC), which is the decision making body of the HCA. The Council hands down competition decisions. The other one is responsible for the operation of specialised sectors, such as Consumer Protection Section, Cartel Section, Legal Section, Antitrust Section, and Merger Section.

The Competition Council (CC) is a separate, decision-making body joint to the authority. The members are appointed and exempted by the President of Hungary for six years, upon the suggestion of the president of the HCA (reappointment is possible only one time). The chairman of the Competition

Council organises and conducts the work of the council, and the three-member (exceptionally five-member) panel makes the decisions in the particular cases. The Members of the CC take part in the competition advocacy and competition culture development activity of the HCA as well.

Procedures

The competition supervision covers the following proceedings:

- Competition supervision proceedings *ex officio*
- Authorisation proceedings commenced on application
- Investigative measures – such as, request for information, hearing of witnesses, access to documents, on-site inspection without a prior notification based on a judicial authorisation at the headquarter of the given undertaking or even in private rooms, cars of the staff, seizure, sealing or making of forensic images about the business database and computers.

Investigation following formal and informal complaints:

- In these cases the complainant and the person making an informal complaint do not become parties, not even when the HCA initiates its proceeding based on the document which they submitted.

Institutional reform process

The systematic institutional development in our focus has started in the early 2000s and lasted for over a decade. Next we summarise the main steps and the key elements of the institutional reform.

Organizational strategy

Although there was no written organisational strategy, early on around 2000 the strategic management was concentrated in the hand of the HCA's president. Following the amendments of the Competition Act (for details see above), the first organizational change affected the Competition Council. According to the new regulation, the members of the council were appointed by the president of the HCA for 6 years. The new regulation made possible the re-appointment of the members, however it was also laid down that the appointments can not expire at the same time, appointments should be made on a rotating basis every second year. The idea beyond was to ensure stability and continuity at the body level, though provide opportunity for refreshments. The fact that the HCA had two presidents, three vice presidents, four CC chairman within the last twenty years provides a good case for institutional stability.

In order to make a clear separation between investigations and decision-making the authority was divided into two organizational units. Two vice presidents directed the separated divisions, one consisting of thematic units and in charge of special investigations, and the other one was the Competition Council. In 2005 the sectoral approach was turning into a thematic approach, and the operative staff was divided into thematic units (see Cartel Section, Consumer Protection Section, Merger Section, Antitrust Section, Competition Culture Section).

Human Resource Strategy

According to the evaluation of the Global Competition Review, by 2009 the employees of the GVH had strong technical, legal and economic knowledge. The authority was regularly evaluating its performance, and it was open and flexible to cooperate with stakeholders. (GCR 2009)

A crucial element of the reform process was to change the composition of the professional staff and to offer positions (both managerial and expert position) to economists. The decision in 2005 was to open the post of lead economist and to fill up at least 30% of the positions with economists. The aim was to improve the quality of economic analyses and increase the role of analytic work in the daily operation (GVH Annual Report 2006). The first (and last) chief economist was appointed in 2006, and he was the main expert responsible for providing background research and theoretical support to the investigations, streamlining the HCA's methodology. By 2011 among the total staff member (125), there were 32 economists, 51 lawyers, and 27 other professionals, together with 15 administrative staff (GVH Annual Report 2011).

In the last ten years of its operation the working language of the authority became partly English, and the age structure has changed significantly (mass inflow of young professionals).

Since 2006 each employee's activity and achievement is evaluated regularly one a year - based on the procedures he is involved, his activities related to the development of competition culture and the protection of competition. The individual assessments are standardised (detailed template), have both a written and a verbal part (in form of a personal meeting with the head of the unit and the vice president).

Fine tuning the mission of the authority

Strengthening Competition Culture

In order to bring the domestic law in line with European norms, the scope of HCA's activity was enlarged with the issue of promoting competition culture in Hungary. Due to amendments to the Competition Act in 2005, the HCA shall be active in raising public awareness in competition issues and in disseminating evidence-based information on the benefits of competition and a competitive business environment.

In order to perform these tasks, a separate body was established in 2006. The Competition Culture Centre is in charge of promoting competition and competition policy-related research, funding libraries, publishing media articles, and financing competition policy related events, media award. In 2005 the HCA founded a prize for non-HCA experts who have contributed the most to the development of competition culture in Hungary in the given year. The Centre launches also special programmes for raising interest among the young generation by offering educational tenders and sponsoring the Hungarian National Student Conference.

The development of competition culture was supported by a series of surveys commissioned by the HCA and conducted by TÁRKI Social Research Institute in a 3-year period starting in 2002. The surveys were repeated annually, companies, lawyers (advocates, in-house counsels, public administration lawyers), as well as economic, journalists were involved.

Transparency

Since 2000 the Hungarian Competition Authority has paid special attention to the transparency of its operation and its law enforcement. The authority was continuously developing its website and made all the decisions available there (see, the online, searchable collection of the authority's resolutions issued since 1997 and major investigations). Next to the decisions, the details of the most important investigation procedures are also available to the public. On the website of the Hungarian Competition Authority an

online searchable collection of the resolutions adopted after 1 January 1997, (date of entry into force of the Competition Act), as well as the most important investigations are available.¹ Usually, the cartel cases had and still have the widest media coverage. The HCA was active in publishing press releases, technical notes, leaflets and other publications to draw public attention and make its operation more transparent.

In addition, the Competition Culture Centre publishes materials which distribute knowledge to a wide range of readers about competition and competition related issues, with hand-on examples of investigation results.

Promoting Consumer Protection

Towards the end of 2000s consumer protection has become one of the top priorities of the institutional reform process. EU level legislation is obviously an important motivation in this development. By now consumer protection is equally important part of the authority's daily operation as for example antitrust policy. It has been acknowledged in the last years that supporting conscious decision making on the part of consumers is as much important as enforcing competitive behaviour in the market sectors.

The Consumer Service Section was established as a separate unit. It operates under the supervision of the Secretary General of the authority. It is responsible for handling certain formal and informal complaints and consumer fraud cases. The HCA intervened in 59 cases in 2009, out of which 48 cases were dealing unfair manipulation of consumer choice and unfair trade practices (GVH Annual Report 2009).

In the opinion of the former HCA president, Zoltán Nagy, this engagement of the HCA helped to bring the citizens closer to the authority, along with pushing the Hungarian enforcement closer to the European norms. (GVH VKK 2010: 10)

The authority was also active in the last years, in encouraging dialogue with consumer stakeholders to incorporate their views by explaining the authority's decision and aims on a regular basis.

Pro-active international involvement

In the 1990s several international models were studied while designing the development plan of the organisation. The lessons learned from the competition authorities of other countries have always had an impact on HCA's work. There was fruitful cooperation (twinning projects) with British and Dutch partner institutions.

With the EU membership (2004) the international activity is intensifying. The International Section is responsible for international relations and its administration. One of the pillars of the authority's international relations is the active membership in the European Competition Network (ECN) since 2004. The HCA is member of several ECN working groups.

The HCA plays an active role also in the work of the International Competition Network (ICN), which coordinates the informal cooperation of competition authorities all over the world. There is an other strategic cooperation with the OECD. The Hungarian authority houses the OECD's regional centre for competition (OECD-GVH Hungary Regional Centre for Competition in Budapest), which gives

¹ <http://www.gvh.hu/gvh/alpha?do=2&st=2&pg=112>

assistance to countries first of all in Central, East and South East Europe in developing their competition policy, competition law and competition culture - relying on the professional background of the OECD Competition Division and the HCA staff. The HCA has also official cooperation with US Competition Authority and the Central European Competition Initiative (CECI).

Effectiveness, Possible Indicators of Success

One objective indicator for assessing the effectiveness and fairness of the authority in terms of its decisions is to have a closer look at success ratio of defending its decisions before the court. The figures show that half of the authority's final decisions are appealed before court and in nearly 90 % of the cases the court agrees with both the legal reasoning provided and with the amount of the fines imposed by the HCA. These judicial revisions have a key role in the interpretation of norms of competition law. Based on expert interviews, it seems that this legal check has significantly contributed to the autonomy of the HCA and reinforced stability in law enforcement. Judicial revisions were taken as important feedbacks to the HCA, and diverging court's decision were examined in details.

Complaints and informal complaints are essential part of the law enforcement activity of the authority. The number of customer complaints provides another proxy on the effectiveness of HCA. During the 2000s the number of costumers turning to the HCA was steadily increasing (approaching 1500-2000 complaints per year towards the turn of the decade, GVH annual reports 2008-2010). The most frequent subject of the related proceedings was deception of consumers. There are certain sectors where the infringements recur year by year (e.g. info-communication sector, undertakings selling products that have health preserving or preventive effects; airline companies; and plans are about to extend this practice to the banking sector as well).

In 2011 out of the 112 decisions of the authority consumer protection cases added up to 71 (63.3 %), control of concentrations to 31 (27.6 %), restrictive agreements to 6 (5.3 %), and abuse of dominance to 6 cases (5.3 %). The composition of the official decisions shows that consumer protection is of increasing importance in the daily operation of the HCA (GVH Annual Report 2011).

One of the most important forms of competition advocacy is the HCA's role of giving opinion on current legislation. According to the Competition Act all bills and draft regulations that might affect the scope of duties of the HCA have to be submitted for comments by the president of the authority (see more than 500 proposals and drafts in 2007, 283 proposals and drafts in 2009, GVH annual reports 2007-2009). The downward trend in the number of drafts and proposals received was highlighted in the 2011 annual report, and it is ascribed to the negligence of the legislators rather than the decreasing intensity of the Hungarian legislation.

One other indicator for the legitimacy and professionalism of the authority could be the high acceptance ratio of the annual reports submitted to the parliament each year (around 99-100% in most of the years). The Global Competition Review in its annual survey on the world's leading competition regimes ranks the Hungarian Competition Authority among the middle class of the authorities towards the end of the 2000s. The Review states that the HCA's decisions are sophisticated and well-considered, investigations are of high quality. Based on peer review (local and international experts), they criticize however the red tape that explains in certain cases the relatively long time to make decisions. There seems to be a

consensus among the national and international experts and actors in the field of competition law that the Hungarian Competition Authority is amongst the strongest authorities in the region (GCR 2009).

Assessment of the case

Finally, the table below summarises why we think that the HCA story may provide lessons and good practices for colleagues and decision makers in other countries.

Table 4: Assessment of the institutional development of the HCA

Field of interest	Relevant lessons and best practice
Decentralisation of tasks and competences	<p><i>The Authority was established among one of the government agencies running public competences as independent government agency (exclusive legal and financial status, parliamentary control). The HCA was first among the public authorities to launch a long-term institutional development plan that was barely influenced by partisan interests.</i></p> <p><i>It operated with considerable professional autonomy.</i></p> <p><i>With the organisational separation of the investigative and decision making divisions, the authority ensured professionalism and credibility.</i></p> <p><i>With the rule of appointing members of the Competition Council on a rotating base every second year, the authority was able to ensure stability and consistency in its operation.</i></p>
Human resource management	<p><i>The president and the two vice presidents of the HCA managed the organisation with a clear and consistent strategic vision.</i></p> <p><i>In spite of the fact that the HCA has never prepared a written institutional strategy, all the HR developments and measures were conceived in a time-consistent way.</i></p> <p><i>The HCA experienced a mass inflow of young professionals, mostly economists that has radically modified both the in-house professional competences and the age structure of the agency.</i></p> <p><i>The management was always open to internal and independent, external feedbacks (see, the performance evaluation system in operation since 2006, the OECD consultations and institutional analyses).</i></p> <p><i>The employee's activity and achievements were evaluated regularly.</i></p> <p><i>The HCA put emphasis on exchange of work experience and learning from international partners (esp. partner authorities in the EU and the OECD). It has established a regional competence centre in partnership with the OECD thereby serving as role model for competence authorities in the CEE region.</i></p>
Ethics	<p><i>Without a special code of ethics, the authority succeeded to build good reputation and credibility during the last decade. It operated independently from partisan politics and business lobby groups, and it also made important steps towards evidence-based decision-making.</i></p>
eGovernment	<p><i>The HCA was always concerned about providing information and data on its operation in the most clear and user-friendly way on its website and via its publications.</i></p> <p><i>It provides online forms and documentations for consumer</i></p>

	<i>complaints, and all of its decisions, resolutions and annual reports containing detailed review of yearly performance are available online.</i>
In addition: Transparency	<i>Among the Hungarian public authorities the HCA was among the organs receiving the highest scores for complying with the provisions of the Freedom of Information Act in 2010. (for details, see Kivele 2010)</i>

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Appendix

Table 1. Overview of important sectoral regulations, most relevant for the operation of the Competition Authority

<p>2001 Act on Electric Energy</p>	<p>„The Hungarian Energy Office (the sectoral regulator) has to solicit for the opinion of the competition authority, nevertheless these proceedings of the Energy Office are without prejudice to the proceedings of the competition authority carried out under the Competition Act” http://www.gvh.hu/domain2/files/modules/module25/pdf/GVH_OGy_beszamolo_2001_a.pdf</p>
<p>2005 a new Act on Trade was adopted</p>	<p>extended the competence of the GVH; the new Act puts commercial undertakings with significant market power under the supervision of the GVH and prohibits the abuse of that position against the suppliers http://www.gvh.hu/domain2/files/modules/module25/pdf/GVH_OGy_beszamolo_2005_a.pdf</p>
<p>2005 Act on General Rules of Public Administrative Procedures and Services</p>	<p>brought a number of changes in the legal background to the procedures of the GVH http://www.gvh.hu/domain2/files/modules/module25/pdf/GVH_OGy_beszamolo_2001_a.pdf</p>
<p>2005 The Act on the Rules of Broadcasting and Digital Transition</p>	<p>„new task to the GVH; In the future the National Communications Authority (Nemzeti Hírközlési Hatóság: NHH) and the GVH will share between them – with respect to the rules concerning data protection and business secrets – the available data, information and documents for the observance of the principles and the attainment of the purposes of the Act” http://www.gvh.hu/domain2/files/modules/module25/pdf/GVH_OGy_beszamolo_2005_a.pdf</p>
<p>2008 Act on the Prohibition of Unfair Commercial Practices against Consumers</p>	<p>„the changes to the system concerned, among other things, basic terms and definitions, such as unfair commercial practices, blacklist, aggressive commercial practices, general-clause on commercial practices, the proceeding authorities and the competences of the GVH” http://www.gvh.hu/domain2/files/modules/module25/pdf/GVH_OGy_beszamolo_2008_a.pdf</p>