THE EPPO/OLAF XIII

Compendium of National Procedures

Desktop Codes on the Procedural Law of the
Member States with Annotations by National Experts

Pierre Hauck and Jan-Martin Schneider

Hungary

λογος

The EPPO/OLAF Compendium of National Procedures

Volume XIII – Hungary

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Volumes I (Austria) – XXVII (Sweden)

Volume XIII – Hungary

Prof. Dr. Pierre Hauck LL.M. (Sussex)
University of Giessen

Jan-Martin Schneider
University of Giessen

Assisted by

Nur Sena Karakocaoğlu
and Alastair Alexander Laird

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Pierre Hauck
Jan-Martin Schneider

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Dr Pierre Hauck LLM (Sussex) is Professor of Criminal Law at the Justus Liebig University of Giessen, Jan-Martin Schneider, Nur Sena Karakocaoğlu and Alastair Alexander Laird are research assistants there.

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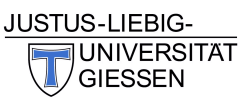

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doc JUDr et PhDr mult Libor Klimek PhD Dr h c (Slovakia)
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Prof Dr Christoffer Wong (Sweden)

* The Lithuanian chapter was also revised by a national expert. However, due to his or her prominent professional position, this person does not wish to be named so as not to give the impression that the chapter reflects the official position of the Lithuanian state authorities. Nevertheless, we thank this person very much for this valuable contribution.

Preface and Acknowledgements

Every year, millions of euros of taxpayers' money are lost to fraud against the European Union budget. The fight against fraud has therefore been a key element in protecting the Union's financial interests for decades, and it still is. Since then, many different political and legal approaches have been taken to create a secure situation.

In essence, this financial protection by way of fighting crime is nowadays not only provided by the national judiciary, but also to a significant extent by the EU's own investigative bodies of the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF).

These two authorities work on the basis of their own EU regulations, each of which has in common to refer to the national legal situation with regard to the conduct of investigations. This concerns the law of the EPPO as a whole, insofar as the EPPO Regulation in Art. 30 para. 1 and para. 4 refers to nationally to be created (para. 1) or nationally existing powers (para. 4). This also applies to OLAF's right to carry out so-called external investigations, which are so important, in the event that an economic operator refuses to participate in the investigation, so that in this case it is not Union law but national law that forms the basis for the investigation (cf. Art. 3 para. 6 OLAF Regulation).

However, these references to national law are not enough; the problems of applying the law are only just beginning: Knowledge of national rules is usually reserved for those familiar with the national legal system, and at the level of the EU authorities these are very few. EU authorities, including the investigative authorities in question here, are rather characterized by the fact that they are made up of many employees from the most diverse member states. It is true that for both authorities, certain mechanisms (namely the EDPs as part of the EPPO and the AFCOS for OLAF) have been put in place to ensure that national legal competence is conveyed. But by and large, the respective national investigative procedure law remains a closed book in terms of criminal procedure or administrative law, not to mention the language barrier that threatens to become insurmountable for most people within the EU when seeking access to the law of other countries.

This publication series aims to remedy these shortcomings. It presents the law of criminal procedure and administrative investigation for all 27 Member States in English and in the language of the Member State. It thus provides easy access to the procedural rules of a foreign legal system, which are so important for EU investigative work. However, this presentation does not stop there, but explains these national rules, which are printed in bilingual form, from a competent source, namely from national experts. In this way, an explanatory work has been created that clearly ensures access to and understanding

of foreign areas of law in the field of criminal procedural and administrative fraud investigations.

The editors would like to thank the European Commission for generously supporting the research underlying this work with funds from the EU's Hercule III programme, and they would like to thank the Justus Liebig University of Giessen for generously supporting the open access publication of this work with funds from its Open Access Publication Fund.

Our sincere thanks go to our team at the University of Giessen, in particular Nur Sena Karakocaoğlu and Alastair Laird, who have borne the main burden. Julian Doerk, Felina Frkic Wegener, Maike Kappes, Tom Löwer, Aleksandra Joachimiak and Sophie Meyer have greatly supported the project with a variety of research and formatting work. Corinna Haas and Vanessa Runge have accompanied the project from the beginning and have always backed us up with their sure eye for work-relevant aspects and processes, thus continuously supporting this ambitious project from start to finish.

The project was also successful because the third-party funding administration of the Justus Liebig University in the shape of Dr Christian Maarten Veldman, Anja Daßler and Jochen Stein took a lot of work off our shoulders.

Last but not least, our thanks go to the wonderful supervision and support of the publisher Volkhard Buchholtz and the production coordinators Katharina Kruse and Hannah Kropla from Logos Verlag in Berlin for everything it takes to bring a book to life.

Fair comments and suggestions for improving the work are always welcome at eppo.olaf@web.de.

Giessen/Germany, in November 2023

Pierre Hauck & Jan-Martin Schneider

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Executive Summary: This compendium is an essential resource for practitioners at OLAF, EPPO, and beyond, offering both legal insights and practical guidance on Hungary's role in EU fraud investigations. Part A opens with an expert introduction by prof. *Krisztina Karsai*, who examines Hungary's unique position within the EPPO's jurisdiction. She explores potential conflicts of jurisdiction, the application of the *ne bis in idem* principle in cross-border cases, and key challenges practitioners may face. Part B provides a structured collection of Hungarian legal materials relevant to investigating fraud affecting the EU budget, equipping legal professionals with references. Parts D ocuses on Hungary's relationship with the EPPO as a non-participating state. Despite this status, Part D presents a hypothetical legal assessment showing that, under certain conditions, Hungary could still cooperate with the EPPO's investigative measures. These sections also map Hungary's investigative authorities and highlight cooperation partners for both OLAF and the EPPO. Part D delivers finally a comprehensive overview of procedural laws governing OLAF investigations in Hungary. It details on-the-spot checks under Regulation 2185/96, incorporates insights from *Sigma Orionis* case law, and identifies national authorities involved in external investigations. This section also highlights recent structural developments in Hungary's investigative framework. To ensure accessibility, the entire chapter is translated into English, with original Hungarian footnotes providing additional explanations and practical tips.

Experts and authors: Prof. Dr. *Krisztina Karsai*, University of Szeged Institut/Abteilung Institute of Criminal Law and Criminal Justice (Introduction). Compilation and research of the hypothetical EPPO and OLAF Parts (B–C) by Prof. Dr. *Pierre Hauck* LL.M. (Sussex), *Jan-Martin Schneider* (Dipl.-Jur. MR; RA, University of Gießen), *Alastair A. Laird* (RA, University of Gießen), and *Nur Sena Karakocaoğlu* (Dipl.-Jur. FFM; RA, University of Gießen) with the assistance of the expert. Compilation and research of the OLAF Part C arranged with the special help of questionnaire experts/organisations (AFCOS, OAFCN), who consulted and submitted research material, including the Public AFCOS Report and OLAF Report.

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Abbreviations

AFCOS	Anti-fraud coordination service
AML	Anti-Money Laundering
ÁVH	State Defense Authority/Államvédelmi Hatóság
BHÖ	Hatályos Anyagi Büntetőjogi Szabályok Hivatalos Összeállítása/ Official Compilation of Applicable Substantive Criminal Law Regulations
BM	Ministry of the Interior/Belügyminisztérium
BRFK	Budapest Police Headquarters/Budapesti Rendőr-főkapitányság
Btk.	Criminal Code/Büntető Törvénykönyv
CJEU/ECJ	Court of Justice of the European Union/European Court of Justice
COCOLAF	Advisory Committee for the Coordination of Fraud Prevention
ECP	European Chief Prosecutor
EDPs	European Delegated Prosecutors
EP	European Prosecutor
EPPO	European Public Prosecutor's Office
GC (aka CFI ex-2009)	General Court of the EU/formerly Court of First Instance
HCC	Hungarian Constitutional Court.
KÚRIA	Supreme Court of Hungary
MJ	National Case law Database/magyar jogszabályok
NJ	National Resource Library for Laws and Regulations/Nemzeti Jogszabálytár

OAFCN (-Member)	OLAF Anti-Fraud Communicators' Network
OLAF	European Anti-fraud Office
tv.	Law/ törvény
tvr.	Decree-law/törvényerejű rendelet

Tables & Figures

Explanation of Symbols & Highlighting

Text passages highlighted in grey show Union law.

Text passages marked with boxes show relevant national law.

Plain Tables display either a synopsis of a foreign law text and the English translation or a summary of institutions and relevant case law.

Tables with symbols in the first row contain case studies (EPPO & OLAF cases) or relevant jurisprudence.

Margin numbers (1, 2, 3…) in the General Margin enable citation.

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 = Expert/Introduction to national law

 = Customs legislation/Customs cases

 = Examples

 = Nota bene/General note

 Case Law/Access to files

 = Tax police/tax-related matters

 = Excerpt

 = Arrest, pre-trial detention (e.g. Art. 33)

Ⓟ = Problems resulting from national law

 = (Important) National Sections

 = (criminal) police); relevant for investigators

 = Funds area (e.g maritime)

 = procurement area

 = judicial authorisation required (e.g. Art. 30)

 = urgent measures (e.g. Art. 27, 28)

Π = Plaintiff (Pi)

Δ = (Delta) Defendant

 = Case Studies (Overviews)

 = Expert comment

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National transposition measures communicated by the Member States concerning: Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law OJ L 198, 28/07/2017, p. 29–41 (BG, ES, CS, DA, DE, ET, EL, EN, FR, GA, HR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV). The member states bear sole responsibility for all information on this site provided by them on the transposition of EU law into national law. This does not, however, prejudice the results of the verification by the Commission of the completeness and correctness of the transposition of EU law into national law as formally notified to it by the member states. The collection National transposition measures is updated weekly. https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371. Art. 15 TFEU and Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. All other source is used on the basis of a CC BY 4.0 licence and Open Government Licence or academic work. Errata: In Volumes III, V, X, XXII, XXV the word 'Trainee' was missing prior to Attorney at Law for Austria.

A. Introduction to the Hungarian Legal Setting in PIF *Acquis* Matters

Krisztina Karsai, Prof. of Criminal Law, University of Szeged

This part deals with a **specific introduction** for Hungary to the criminal *investigation* scenery of PIF *acquis* offences according to Hungarian laws. In this introduction, we would like to present some issues of practical relevance related to the legal provisions and their interpretation, thus contributing to their proper application, even in transnational cases.

I. Doubts about the blocking effect of the transnational *ne bis in idem* (EU)

In Hungarian criminal law, the enforcement of the (transnational) *ne bis in idem* (Article 54 SVE and Article 50 CFR) became part of the jurisprudence after the accession to the EU hardly – the judiciary was not very open to the eventual direct **application of EU rules** in this matter in the early years. The most important reason for this is that in Hungarian criminal law thinking, the Criminal Code and **Act XXXVI of 1996 on International Mutual Assistance in Criminal Matters** contained explicit provisions on the domestic recognition and possible legal effects of foreign judgments, which followed the transformation model of international cooperation, and the need for different treatment of EU MS judgments only appeared in academic publications. **1**

The **special procedure for recognition** was also necessary when the legal effects of a decision of another Member State court had to be enforced in the Hungarian legal order, including when the proceedings were to be terminated (or even acquittal) based on the *ne bis in idem* principle. The situation was also characterised by the fact that there were no cases in which the parties objected to the special procedure or no judges who referred to the CJEU (until the Balogh case, see later), but the procedure did not fully ensure the principle of mutual recognition of final decisions in criminal proceedings for the same offence. **2**

The **Council Framework Decision 2008/675/JHA** of August 15 2010, was duly transposed and introduced changes to the rules on criminal records, but the transformation procedure mentioned above still had to be carried out for MS convictions. As the purpose of the procedure was to ensure consistency with Hungarian law, it, therefore, involved an examination of the merits of the other Member State's judgment (different definition of the same act), which did not always result in the recognition of the *ne bis in idem* effect of the Member State's judgment. This was the case until the C-25/15 Balogh case.[1] The Hungarian judge in the **Balogh case** found a contradiction with EU law on a "seemingly innocent" issue, namely the criminal costs; the question was whether Article 1(1) of **Directive 2010/64/EU** requires that in a special procedure (like **3**

[1] Judgment of the Court (Fifth Chamber) 9 June 2016; ECLI:EU:C:2016:423.

the Hungarian transformation procedure) the costs of the translation shall be taken by the State or by the concerned person being this procedure not deciding on the criminal responsibility of the person but on whether to integrate the foreign decision into the Hungarian legal order or not (the special procedure under Hungarian law be regarded as being covered by the expression "criminal proceedings", or must this expression be interpreted as referring only to procedures which conclude with a final decision concerning the **criminal liability** of the accused person by the mentioned Directive). The CJEU examined the issue and found that the Directive does not apply to a special procedure like the Hungarian one and that the mentioned Council Framework Decision 2009/315/JHA and the Council Decision 2009/316/JHA of April 6, 2009 must be interpreted as precluding the implementation of national legislation establishing such a special procedure.

4 As a result of the **Balogh case**, the Hungarian legislature has finally acted, thus detecting a conflict with the principle of mutual recognition, and with effect from January 1 2018 it has reformed the system of rules determining the legal effect of foreign judgments in Hungary. The legal effects of court judgments from other Member States are still given in two ways. The principle of *ne bis in idem* must be considered by all stages of the criminal procedure without the need for a formal procedure, and already at the beginning of criminal proceedings, investigating authorities are obliged to collect data on the possible previous assessment of the offence (*considering the national judgment*).

5 Regarding the further legal effects of national judgments (e.g. assessment in the context of **recidivism**), a so-called *recognition procedure* was introduced, which remains a special procedure and only the Metropolitan Court of Budapest has the competence and jurisdiction to conduct the procedure. Thus, applying the transnational *ne bis in idem* principle could be fully enforced about national judgments. Until March 1 2022.

6 On the same day, the amendment of the criminal law entered into force, with which the Parliament wanted to resolve a situation that had caused significant difficulties in the application of the law, but the concrete side effect of the new legal situation is that Hungarian law has since then not been in line with EU law and the interpretation of the CJEU on the *ne bis in idem* principle.

7 On March 1 2022, a **new subparagraph** 4.§ 7a of the Code on Criminal Procedure entered into force, according to which, if several or persistent acts of the offender constitute one offence, or several offences constitute one offence under the provisions of the Criminal Code, subparagraph 7 shall not prevent the initiation and conduct of criminal proceedings for an act not covered by the facts of the Member State's decision

specified in subparagraph 7[2]. This new provision does not take into account the EU concept of identity of facts[3], as this would mean that only those partial acts which are part of the accusation (as the unity of offences or action– "*Handlungseinheit*" or "*Gesetzeseinheit*") in Hungarian criminal proceedings which have been adjudicated abroad would fall under the *ne bis in idem* principle. All other partial acts within the unity of action could be prosecuted, while the CJEU has made "inextricably linked" the central element of this problem. What has happened here is that the Hungarian legislator has reverted once again to the identity of legal assessment, which is a clear step backwards to the EU's development. The reason for this change is obvious (in particular, it was made to take effective action against budget fraud offences that continue to be prosecuted during the criminal proceedings, and to ensure the effective adjudications of these cases), but it is not possible to give these provisions a uniform interpretation.

8 In my view, it is to be expected that in trafficking cases, or in carousel fraud, or in human smuggling cases, which are characterised by **transnationality** and continuity of criminal behaviour, there will be a Hungarian defendant who will seek to invoke the protection of Article 54 of the CISA in just such a case. Although there is no obligation under Hungarian procedural rules for a Hungarian judge (of the first instance) to make a referral to the CJEU, the contradiction is so apparent that it cannot avoid requesting the CJEU. Unless, based on this, it conducts and convicts the person concerned for the same facts. In that case, a Hungarian conviction would clearly breach EU law. In the context of Hungarian legal order, a **constitutional complaint** could be lodged following such a conviction under Article XXVIII of the Fundamental Law. Article XXVIII, Section 4 of the Fundamental Law, express that (4) no one shall be held guilty of any criminal offence on account of any act which did not constitute a criminal offence under Hungarian law or – within the meaning specified by international treaty or any legislation of the European Union – at the time when it was committed. According to the present understanding, the constitutional complaint could be admitted and adjudicated in such a case and, where appropriate, the violation of constitutional right could be established, given that

[2] Code on Criminal Procedure Art 4.§ (7) Criminal proceedings shall not be launched or shall be terminated where the offender has been finally disposed of in a Member State of the European Union (hereinafter referred to as "Member State") or where a decision on the merits has been taken in a Member State which, in respect of the same acts, prevents the institution of new criminal proceedings or the continuation of criminal proceedings, whether ex officio or on the basis of an ordinary appeal, under the law of the Member State which issued the decision.

[3] In *Van Esbroeck*, the CJEU stated that the 'same acts' is to be understood as the identity of the material acts in the sense of 'a set of concrete circumstances which are inextricably linked together in time, in space and by their subject-matter'. Case C-436/04, *Van Esbroeck*, Judgment of 9 March 2006.

the text of the above norm would be interpreted by the Constitutional Court together with EU law, in the light of Articles E[4] and Q[5] of the Fundamental Law.

II. Cases of conflict of jurisdiction of the European Public Prosecutor's Office and Hungarian jurisdiction

9 According to Article 23 the EPPO shall be competent for the offences referred to in Article 22 where such offences: (a) were **committed in whole or in part** within the territory of one or several Member States; (b) were committed by a national of a Member State, provided that a Member State has jurisdiction for such offences when committed outside its territory, or (c) were committed outside the territories referred to in point (a) by a person who was subject to the Staff Regulations or to the Conditions of Employment,[6] at the time of the offence, provided that a Member State has jurisdiction for such offences when committed outside its territory.

10 Hungary, as a **non-participating Member State**, may come into contact with the EPPO in the following scenarios, i.e. there are offence scenarios in which both the EPPO and Hungary have jurisdiction to initiate and conduct criminal proceedings.

[4] Article E (1) Hungary shall take an active part in establishing a European unity in the pursuit of freedom, well-being and security for the peoples of Europe. (2) In its role as a Member State of the European Union and by virtue of international treaty, Hungary may – to the extent necessary for exercising its rights and fulfilling its obligations stemming from the Founding Treaties – exercise certain competences deriving from the Fundamental Law, together with the other Member States, through the institutions of the European Union. The exercise of powers under this Paragraph must be consistent with the fundamental rights and freedoms set out in the Fundamental Law, and it must not be allowed to restrict Hungary's inalienable right of disposition relating to its territorial integrity, population, political system and form of governance. (3) General binding rules of conduct may be laid down in European Union legislation within the framework set out in Paragraph (2). (4) The votes of two-thirds of all Members of Parliament shall be required to authorize the recognition of an international treaty referred to in Paragraph (2) as binding in scope.

[5] Article Q (1) In order to establish and maintain peace and security, and to ensure the sustainable development of humanity, Hungary shall endeavor to live in harmony with all the peoples and countries of the world. (2) Hungary shall ensure that Hungarian law is in conformity with international law in order to comply with its obligations under international law. (3) Hungary shall accept the generally recognized rules of international law. Other sources of international law shall be incorporated into Hungarian law upon their promulgation by laws.

[6] O.J. 2013, L 287, Regulation (EU, EURATOM) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union.

If Article 23 section a) and b) are applied, there are the following initial scenarios: **11**

- the offence has been committed in at least two MS (one of them is a non-participating country) or
- the offence has been committed in a participating MS but by a citizen of a non-participating MS or
- the offence has been committed in a non-participating MS but by a citizen of a participating MS.

It does not fall under the scope of application of the regulation, if the offence has been committed only on the territory of non-participating MS by their citizens.

The first case, that was mentioned has two further alternatives according to the factual circumstance whether the offence has separable acts committed on the territory of a non-participating MS. If it is separable: the *EPPO does not deal with the cases committed in non-participating MS but* signals the possible need for a procedure to national law enforcement authorities. **12**

The domestic authorities will decide whether to proceed, however the background directive[7] requires the prosecution, thus a decision not to prosecute would constitute a violation of the union law. (1.) **13**

The EPPO is dealing with an offence which (or at least part of it) has been perpetrated in a non-participating MS, and the case cannot be separated, the *inextricable connection* is given. In this case the procedure of the EPPO – in the case of a final decision having been reached, will result in *res judicata* and the *ne bis in idem* doctrine[8] will come into force. The negative effect of this will be that the *ne bis in idem* doctrine will also enter into force for the parts of the crime committed in the non-participating MS but without this country's participation in the adjudication process. The *ne bis in idem* principle shall prevail even if another MS criminal proceeding had been initiated in parallel, and further, if this procedure was to be closed following substantive examination prior to the procedure initiated by EPPO, the *res judicata* power of the former would make the judgment of EPPO redundant. **14**

The EPPO deals with an offence that (or at least part of it) had been perpetrated in a non-participating MS, and the case can be separated. In such a case, the competent authorities of this MS shall have a procedural obligation (principle of procedural legality) from the moment and point in which knowledge is gained of the possible commission of the offence – at the latest after the EPPO informed the competent authorities. **15**

[7] Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law; OJ L 198, 28.7.2017, p. 29–41.
[8] Karsai (2017), p. 409.

16 Unquestionably, it can be noted that on the one hand, the above scenarios may give rise to abuse of the system, while on the other hand, these may result in the non-punishment of offences committed in the territory of non-participating MS.

17 It may also happen that a national of the non-participating MS may commit an act *abroad*, that is, in the territory of a MS that has joined the enhanced cooperation scheme. If that MS acknowledges the active personal principle (which is generally dominant in any European country), its jurisdiction will be extended to the offence, but this will conflict with the jurisdiction of EPPO. In this case, as well as in the scope of the former cases, the application of the coordination mechanism can be recommended, which in its status covers conflicts of jurisdiction between MS but could logically be applicable in MS-EPPO relations as well.[9]

18 The rules applied for acts committed in the **territory of non-participating MS** are based on the *extraterritorial jurisdiction of the EPPO*. In this scenario, Article 23 no. b) of the EPPO-Reg could be applied, such as a situation where under criminal law of the participating MS the active personal principle would prevail without limitation – in other words, the MS enforces claims for punishment for a criminal act committed elsewhere by its national. In such a case, the criminal jurisdiction of non-participating MS could exist for an act committed in its territory, but in this case the EPPO may also maintain the right of exercising competence.

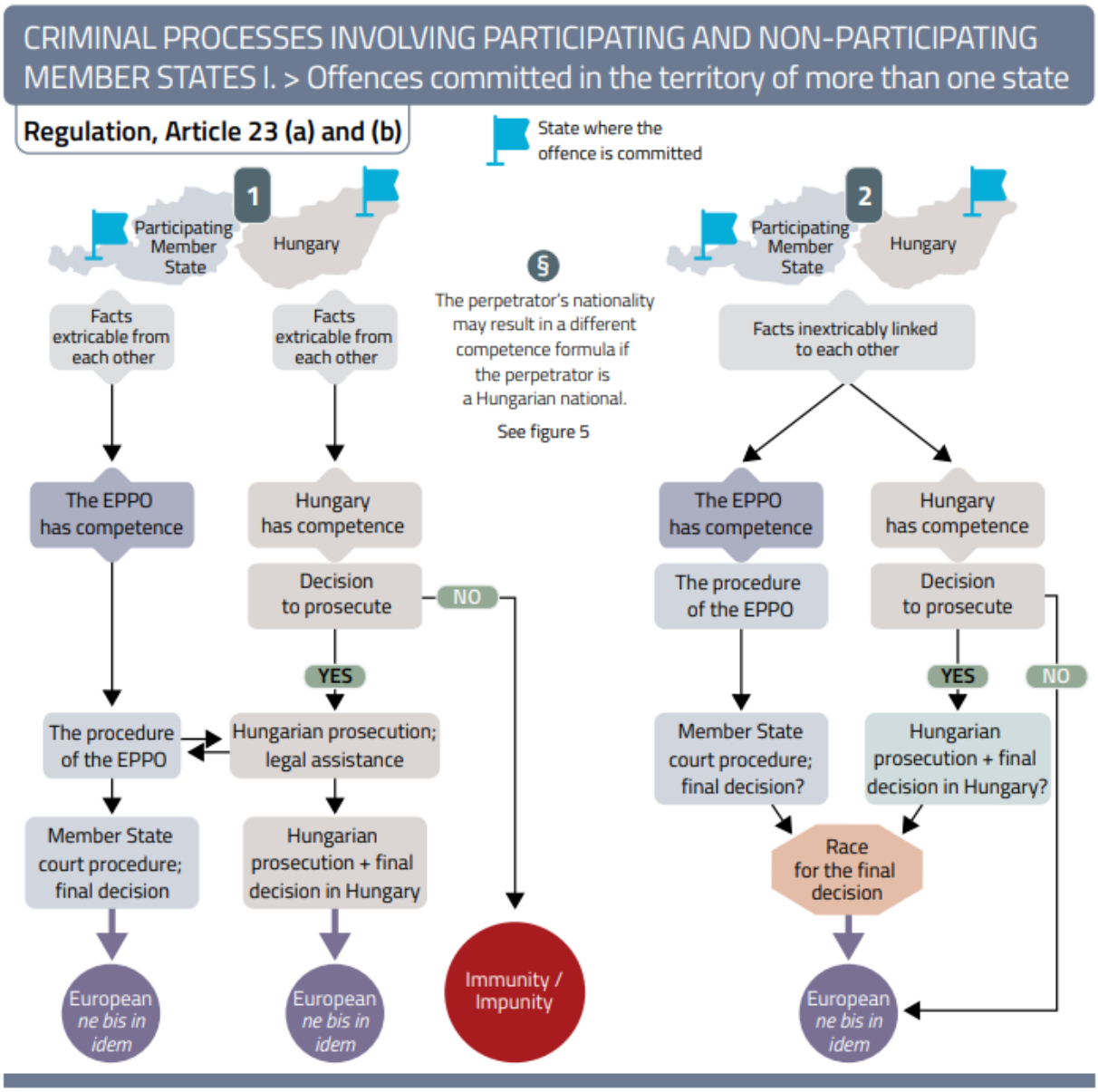
19 A criminal procedure **carried out in parallel** could also have consequences such as those outlined in the former point. If authorities of non-participating MS do not carry out a procedure, the principle of non-territorial jurisdiction acknowledged by EPPO-Reg would again precipitate that the EPPO may prosecute an act committed in the territory of this MS.

20 In conclusion, it can be said that there will be **both positive and negative jurisdictional conflicts** between the non-participating MS and the EPPO. In other words, resolving these conflicts without violating the principles of the rule of law is only possible if we compromise the efficient prosecution of transnational crimes that violate EU financial interests. This is not a choice, not even for non-participating MS, as this is already outlined as a fundamental requirement for all MS under Article 328 of the TFEU.

21 The following tree charts show the relationships between participating and non-participating Member States explained earlier in the text and the problems of transnational criminal law applied against EU fraud.

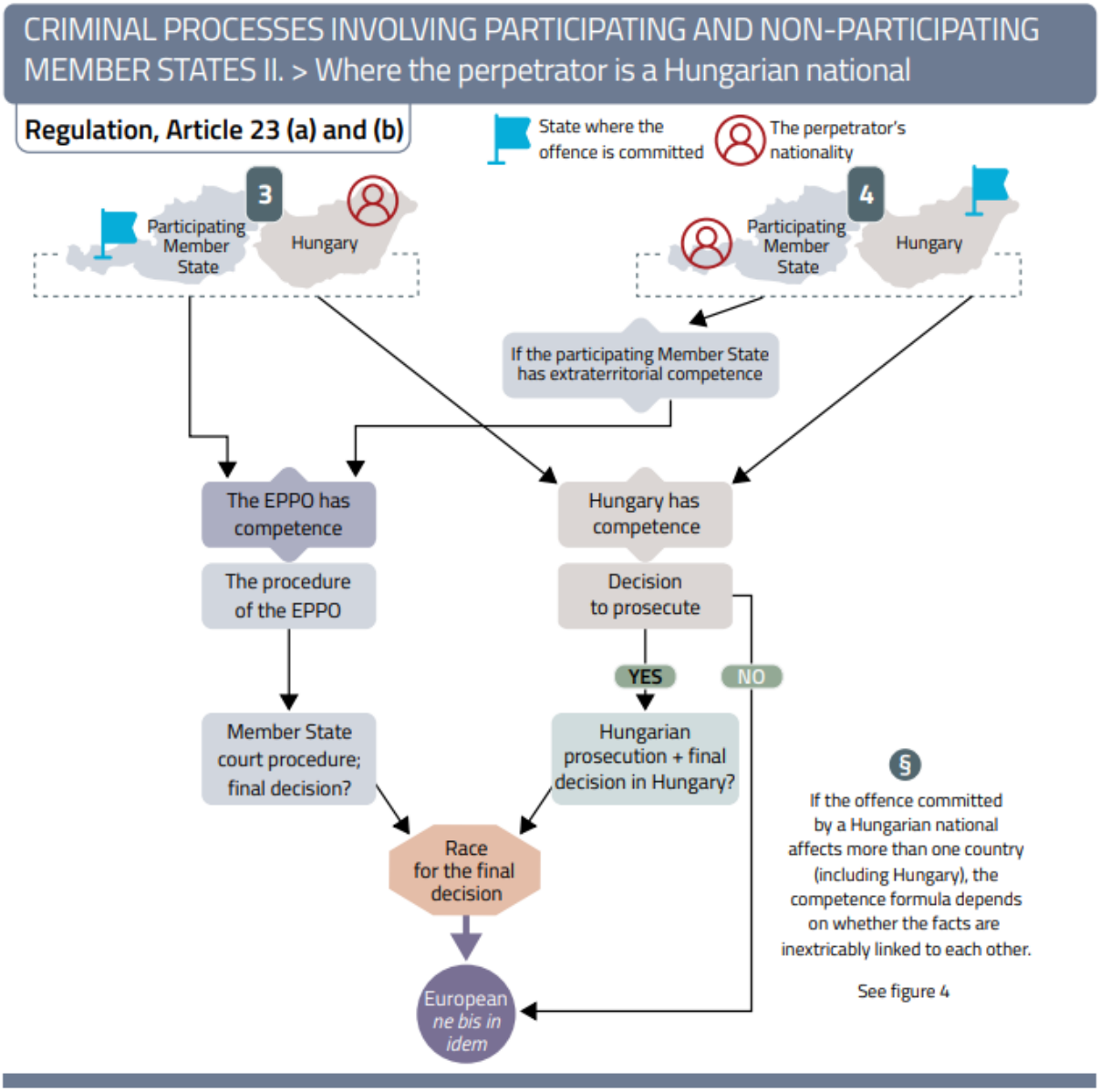
[9] O.J. 2009, L 328/42, Council framework decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings.

Figure 1: Criminal processes involving participating and non-participating Member States (offences in one than one state)



Source: Karsai 2021, p. 42.

Figure 2: Criminal processes involving participating and non-participating Member States (perpetrator is a Hungarian national)



Source: Karsai 2021, p. 44.

III. General information on investigative measures and coercive procedural measures in the light of the EPPO Regulation

22 Under Hungarian criminal law, the investigative measures under Article 30 of the EPPO Regulation constitute coercive procedural measures, subject to the Code on Criminal Procedure Part Eight (§§ 271–378).

Table 1: Investigation Measures

EPPO Regulation Art 30	**Code on Criminal Procedure (Be.)**	**Comment**
1.a search and seizure	ss. 302–305.	search/*kutatás*
	s. 306.	(search on the body of the person)/*motozás*
	ss. 308–323.	seizure/*lefoglalás*
1.b. search and seizure	s. 308–323.	seizure/*lefoglalás*
1.c. search and seizure	s. 315	seizure of electronic data
1.d. freezing	ss. 324–332.	freezing/*zár alá vétel*, if a seizure is not possible
1.e. interception	s. 231 (covert measures)	(*lehallgatás*)
1.f track and trace	s. 215 (5) (covert measure)	(*rejtett figyelés*)
(fake purchase)	s. 221 (covert measure)	(*álvásárlás*)
(monitoring of payment transactions)	s. 216 (covert measure)	(*fizetési műveletek megfigyelése*)

Source: K.K.

The Be. contains the rules on covert measures, both general and specific rules on the concrete execution of the measures. According to § 214 the use of covert measures in criminal proceedings involving the **restriction of fundamental rights** relating to the inviolability of the private home, the protection of privacy, the protection of correspondence and the protection of personal data is a specific activity which the authorised bodies carry out without the knowledge of the person concerned (definition). **23**

In the criminal procedure, there are covert measures that can be applied without the need for any authorisation, there are others that need the authorisation of the public prosecutor, and finally, some of them **require authorisation** by the judge. **24**

However, these shall not affect the collection of classified data by the national security services and the police counter-terrorism service to carry out their law enforcement functions under the National Security Services Act. **25**

A **covert measure** may be used *if there are reasonable grounds to believe* that the information or evidence to be obtained is essential to the purpose of the criminal proceedings and cannot be obtained by any other means; its use would not result in a disproportionate restriction of a fundamental right of the person concerned or of another person **26**

concerning the law enforcement purpose to be achieved and its use is likely to lead to the acquisition of information or evidence relating to a criminal offence.

27 During an investigation, the above coercive measures are usually undertaken when there are reasonable grounds for suspicion and a natural person can be suspected of committing the offence (after the preparatory procedure). The threshold is here the identification of any natural person who can be suspected of committing the given offence.

IV. Comment on the Introduction

Hauck, Schneider, Laird, Karakocaoğlu University of Gießen, JLU

As prof. *Karsai* has explained above, Hungary, as a **non-participating Member State**, is involved in many EPPO (VAT[10]) cases[11] and may still encounter jurisdictional conflicts with the EPPO in cases where crimes affect multiple jurisdictions and has already resulted in publicly know cases.[12] The EPPO's competence extends to crimes committed in participating Member States, by their nationals abroad, or by EU staff members, provided a Member State has jurisdiction. From our point-of-view these potential jurisdictional conflicts between the EPPO and non-participating Member States, such as Hungary, may result in **critical implications for legal practitioners** representing suspects. **28**

Defense lawyers need to be acutely aware of how EPPO's competence interacts with national jurisdictions to protect their clients' procedural rights and develop effective legal strategies. If the EPPO would prosecute a case involving Hungary, but Hungary was not part of the proceedings, the *ne bis in idem* principle could bar further national prosecution, even where Hungary has a legitimate interest in the case. If an offense can be separated, Hungary retains prosecution rights over parts of the case. However, if it is inseparably linked to EPPO proceedings, suspects may face an EU-wide legal framework that differs from their national system. **29**

Defense attorneys evaluate whether their client's case should be heard in Hungary or under EPPO jurisdiction, considering factors like sentence severity, evidentiary standards, and procedural safeguards. For lawyers handling cases, understanding these jurisdictional complexities is essential for protecting procedural rights. Hungary's recently alleged espionage against OLAF investigators probing EU fund misuse raises serious concerns.[13] Can the EU tolerate a member state spying on its own anti-fraud agency **30**

[10] See Malan and Bosch 2022, Malan 2022 on fraud typologies detrimental to the EU budget.

[11] See Szabó 2024, https://english.atlatszo.hu/2024/05/02/hungary-was-involved-in-80-investigations-by-the-european-public-prosecutors-office-last-year/. Accessed 31 December 2024: "Hungary was involved in 80 cases last year, the highest number of the five non-member countries."

[12] See Karsai 2024 who discussed the so-called "Hungarian Treeless Treetop Walkway case". It exemplifies jurisdictional tensions between the EPPO and Hungarian authorities regarding the prosecution of EU fraud. Despite initially rejecting jurisdiction, the EPPO later launched an investigation into the allegedly fraudulent misuse of EU funds, arguing that the financial damage to the EU budget occurred in Belgium, the seat of the EU institutions. The Hungarian Prosecutor General's claim that EPPO lacks jurisdiction is legally questionable, as Hungary itself recognizes the "result theory" in its own criminal law, which allows prosecution based on the place where the harm materializes. The author criticizes Hungarian authorities for their reluctance to cooperate with the EPPO, warning that a lack of meaningful action on their part could lead to impunity for EU fraud. The case underscores the broader challenges of prosecuting transnational crimes, especially in non-participating Member States reluctant to cede investigative control.

[13] See Datta and Ionta 2025; Bortoletto 2024, eunews Article of 09.12.2024, Hungarian intelligence services allegedly spied on European officials https://www.eunews.it/en/2024/12/09/hungarian-intelligence-services-allegedly-spied-on-european-officials/. Accessed 31 January 2025.

without consequences? All of these concerns need to be dealt with – in the meantime investigators need to apply the laws, which are collected below.

B. Material for Part C and Part D

EU-wide or any national investigation measure may **potentially infringe on individuals' rights** to privacy and e.g. data protection. Understanding **limitations** imposed by the ECJ or national courts helps prosecutors, seconded national experts and case analysists balance the need for effective investigations against protecting individuals' fundamental rights in the sensitive area of **PIF *acquis*** actions. 1

I. Collection of Cases

The collection of cases shall offer a first **datapool of decisions** of Hungarian courts related to the PIF acquis sector. 2

1. Criminal investigations into PIF offences

Decisions of the General Prosecution Office can be obtained via a Webportal.[14] The National Police has an equal database.[15] 3

Table 2: PIF Crime Area Related Cases

Court/Identifier[16]	Decision/Content
Metropolitan Court of Appeal, FIT-BJ-2018-181. [Bf.141/2018/14].	Budget fraud, s. 396 CC, signing documents, OLAF Report as evidence in criminal trial: "The presentation of the final report in the first instance and the presentation of the documents processed in it took place in the second instance hearing. The judging panel evaluated the contents of the final report and the attached documents as evidence during the proof based on Article 11 of the OLAF Regulation. Article 11 of the chapter Investigation report and follow-up measures, paragraphs 2, 4 and 5 of OLAF reports prepared during the investigation are considered evidence in administrative or judicial proceedings in the same way and under the same conditions as reports

[14] See https://eakta.birosag.hu/anonimizalt-hatarozato. Accessed 31 December 2024.
[15] See https://adatvedelem.police.hu/web/guest/anonimizalt-hatarozatok/. Accessed 31 December 2024.
[16] See https://aleph23.ogyk.hu/F/1XMUH7GGNLQIXCRPSX5FAV2JJYLCIPYKQ4UKFSAYSQSAQTF7FC-01881?RN=23173333&pds_handle=GUEST. See Bírósági Határozatok Gyűjteménye (BHGY)/Jurisprudence Hungarian Courts: https://eakta.birosag.hu/anonimizalt-hatarozatok. Accessed 31 December 2024.

	prepared by the National Public Administration Examiners of the given country.
Mansion Bhar.1289/2011/6; Court of Appeal Pécs Bf.86/2011/5; 17-BJ-2011-21.	ss. 2225 para 1, 255, 288, 331, 314, 317, 338, 339 CC, OLAF. Installation of technical equipment that deviates from the plans.
Mansion Bhar.1289/2011/6; Court of Szekszárd B.133/2009/44.	Complaint to OLAF, criminal proceedings.
Metropolitan Court B.520/2017/97, FIT-BJ-2020-3.	Procurement project, consideration of the OLAF report as evidence in criminal proceedings.
Mansion Bhar.173/2019/4; Metropolitan Court of Appeal Bf.141/2018/14, 1-BJ-2018-114	OLAF launched an investigation on 2 September 2011; On 24 April 2012, OLAF investigators carried out an on-the-spot check of the company's name, ss. 38, 56, 57, 77, 104, 150, 151, 330, 331, 338, 396 (budget fraud case).
Court of Appeal Győr Bf.27/2018/11, 19-BJ-2017-21.	Among other things: budget fraud, OLAF Report.
Mansion Bfv.621/2014/16; Court of Appeal Pécs Bf.291/2013/32, 20-BJ-2012-24.	Due to a deficiency initiated OLAF procedure, irregularities lead to criminal proceedings.
Metropolitan Court of Appeal Bf.287/2021/99; Metropolitan Court of Appeal Bf.358/2021/42; Metropolitan Court of Appeal Bf.210/2021/97.	A blackmailer threatened to report him to the parties, the investigating authorities and OLAF; During the accession period, OLAF pointed out that there could be a risk of unauthorized applications, ss. 293, 294, 299 CC.
Győri Törvényszék B.366/2016/99, GYIT-BJ-2020-37.	Criminal organization, Budget fraud.
Mansion Bfv.1018/2019/6; Court of Appeal Debrecen Bf.755/2018/23; 5-BJ-2018-32.	VAT fraud, budget fraud.
Court of Appeal Debrecen Bf.663/2021/30, 5-BJ-2021-33.	Budget fraud, several perpetrators.
Metropolitan Court of Appeal Bhar.28/2021/9; Metropolitan Court Bf.11688/2019/15 1/1-BJ-2019-7.	Criminal Investigations, Continued Missapropation.

Győr Court B.269/2016/525; GYIT-BJ-2021-79.	Crimes against the household under Chapter XXXIX.
Mansion Bfv.1738/2016/9; Metropolitan Court B.1337/2014/35, FIT-BJ-2016-130.	Attempted household fraud (§ 396 paragraph 1 letter a StGB) complicity.
Metropolitan Court of Appeal Bhar.130/2016/26; Metropolitan Court Bf.9205/2015/10. 1/1-BJ-2015-20.	European Union Cohesion Fund, suspected budget fraud, EU educational material, teaching facility.
Court of Appeal Pécs Bf.5/2019/30, 15-BJ-2018-18.	EU Cohesion fund, s. 396, budget fraud.
Court of Appeal Szeged Bf.788/2016/19; Mansion Pfv.20136/2018/15, 3-BJ-2016-18.	Fraud within the meaning of Section 318(1) and (6)(a) of Act IV, 1978, particularly large damage.
Mansion Bfv.1222/2019/11; District Court Szeged Bf.225/2018/7, 6/1-BJ-2017-14.	s. 396 para 1, nr. 3a CC, budget fraud.
Metropolitan Court K.703802/2021/5; Mansion Kpkf.40553/2021/3, K.703802/2021/10, 1-KJ-2021-365.	OLAF investigation from 2 June 2015 to 22 December 2017; procurement.

Table 3: Civil Cases Related to EU Funds

Civil Cases	
Metropolitan Court P.20045/2018/8, PASS-PJ-2018-422.	EU funds for the reconstruction of castles and chateaus, almost HUF 40 billion
Metropolitan Court of Appeal Pf.20413/2022/9, 1-PJ-2022-219.	EU Cohesion Funds.

2. OLAF Regulation Related Cases

4 Decisions of the National Tax and Customs Authority can be obtained on a Website for anonymized decisions.[17] Important OLAF decisions are as well published online.[18]

⚖ *Table 4: OLAF Related Cases*

Relates to following Art. of the Regulation/TFEU	**Judgement, ECLI, etc.**	**Content – Cases worth to study:**
Art. 1–4 OLAF Regulation	ECJ, C-615/19 P, *John Dalli v European Commission*, Judgement of 25 february 2021, ECLI:EU:C:2021:133.	Allegedly illegal conduct of the European Commission and OLAF, Procedural rules governing the OLAF investigation,Opening of an investigation, Right to be heard
In combination with Art. 263 TFEU, Article 130(1) and (7) of the Rules of Procedure.	ECJ, T-378/17, *Inox Mare Srl v European Commission*, 21 June 2017 Order of the General Court (Seventh Chamber), ECLI:EU:T:2017:378.	Import of markets stainless steel fasteners in the European Union, Italian Customs acting on behalf of OLAF, "42 reports detailing evasion of customs duties followed by 43 recovery notices and 43 decisions imposing penalties totalling in excess of EUR 8.5 million", Action for annulment, Regulation (EU, Euratom) No 883/2013, External investigation conducted by OLAF, Report and recommendations, Measures not amenable to challenge, Inadmissibility.
	ECJ, Case T-251/16, Complaint filed on 20 May 2016, Director-General of the European Anti-Fraud Office/Commission.	Privileges and Immunities. Dismissed.

[17] See https://nav.gov.hu/anonimizalt-hatarozatok. Accessed 31 December 2024.
[18] And see the digest of court rulings published from time to time European Commission 2018.

Art. 3 OLAF Regulation	Metropolitan Court of Appeal, FIT-BJ-2018-181. [Bf.141/2018/14].	On-site inspection on April 26, 2012, no results after first inspection, another on-site inspection on June 21, 2012, OLAF carried out additional inspections, Suspicions for Budget fraud, sales of machines, companies, s. 396 CC, signing documents, OLAF Report as evidence in criminal trial, OLAF obtained computer, OLAF obtained statements.
In combination with Art. 7 2185/1996	ECJ, Judgment of the General Court of 26 June 2019, *Vialto Consulting v Commission*, Case T-617/17.	Potential infringement of Article 7(1) of Regulation No 2185/1996, Art. 41 CFR, proportionality principle.
Art. 4 Internal Investigations OLAF Regulation	ECJ, Judgment of the Court (First Chamber) of 10 June 2021, *European Commission v Fernando De Esteban Alonso*, Case C-591/19 P, ECLI:EU:C:2021:468.	Appeal, Civil service, Internal investigation by OLAF, Forwarding of information by OLAF to the national judicial authorities, Filing of a complaint by the European Commission, Concepts of an official who is 'referred to by name' and 'implicated', Failure to inform the interested party, Commission's right to file a complaint with the national judicial authorities before the conclusion of OLAF's investigation, Action for damages.
Article 12 of the CEOS; Art. 11 OLAF Regulation	ECJ, T-461/17, Judgment of the General Court (Sixth Chamber) of 6 February 2019, ECLI:EU:T:2019:63.	European Institute of Innovation and Technology (EIT), based in Budapest (Hungary), Civil service; Members of the temporary staff; Recruitment; Notice of vacancy; Head of

		Unit post; Inclusion on the reserve list; Acceptance of the offer of employment; Withdrawal of the offer of employment; Conditions of employment; Character references; Article 12 of the CEOS; Manifest error of assessment; Processing of personal data; Right to be heard; Liability
Art. 7 OLAF Regulation	ECJ, C-650/19 P, *Vialto Consulting Kft. v European Commission*, ECLI:EU:C:2021:879.	Appeal, Investigation OLAF, On-the-spot checks, Regulation (Euratom, EC) No 2185/96, Article 7, Access to computer data, Digital forensic operation, Principle of legitimate expectations, Right to be heard, Non-material damage, Article 7(1) of Regulation (EC) No 2185/96; Principle of sound administration; Legitimate expectations; Proportionality; Right to be heard; National public procurement; Devolved management; Sufficiently serious breach of a rule of law conferring rights on individuals.
Art. 10 OLAF Regulation	ECJ, Case T-110/15*, International Management Group v European Commission*, Judgment of the General Court (Eighth Chamber) of 26 May 2016.	Access to documents; Regulation (EC) No 1049/2001; Documents relating to an OLAF investigation; Access refused; Exception concerning the protection of the purpose of inspections, investigations and audits; Obligation to carry out a specific and individual examination; Category of documents.

Claim for damages, Art. 267 TFEU	ECJ, Judgment of the Court (Second Chamber) of 22 September 2022, *International Management Group (IMG) v European Commission*, Case C-650/19 P, ECLI:EU:C:2022:722.	Director-General for International Cooperation and Development of the Commission, OLAF legal analysis, OLAF Report, Implementation of the EU budget under indirect management by an international organisation, Decision to not entrust any new budget implementation tasks to an entity due to doubts as to its status as an international organisation, Action for annulment, Compliance with a judgment annulling a measure, *Res judicata*, […].
Art. 9 OLAF, 11 OLAF Report, Access to it	ECJ, Order of the General Court of 2 June 2022, *Tóth v Commission*, Case T-17/22.	Action for annulment, Access to documents, Regulation (EC) No 1049/2001, OLAF investigation concerning the public lighting activities of Élios Innovatív, Application for access to the final investigation report, Implied refusal of access, Express decision to grant access adopted after the action was brought, No need to adjudicate
Article 14 of Regulation No 1073/1999, Article 90(2) Staff Regulations	ECJ, General Court, Judgment of 6 April 2006, *Camós Grau v Commission*, Case T-309/03, ECLI:EU:T:2006:110.	OLAF Report, legal effect.
Art. 4 OLAF Regulation	ECJ, Court of First Instance, Judgment of 4 October 2006, *Tillack v Commission*, Case T-193/04, ECLI:EU:T:2006:292.	OLAF Report, legal effect.
Art. 11 OLAF Regulation,	ECJ, Judgment of the General Court of 1 September 2021,	Access to documents, Regulation (EC) No 1049/2001, Final

Regulation 1049/2001	*Homoki v Commission*, Case T-517/19, no ECLI, OJ C 328, 30.9.2019.	report of the OLAF investigation into the implementation of a street-lighting in-vestment project in Hungary, Refusal to grant access, Exception relating to the protection of the purpose of inspections, investigations and audits, Exception relating to the protection of the commercial interests of a third party, Exception relating to the protection of privacy and the integrity of the individual, Protection of personal data.
Art. 11 OLAF Regulation	Administrative and Labor Court Szeged K.27522/2015/13.	Example for relevance of OLAF Report in Labour and administrative Courts in Hungary.
Art. 11 OLAF Regulation	Tatabánya Administrative and Labor Court K.27216/2015/14.	Example for relevance of OLAF Report in Labour and administrative Courts in Hungary.
Art. 11 para 1 "estimated amounts to be recovered" OLAF Regulation	Administrative and Labor Court Veszprém K.27178/2015/12.	"OLAF recommendation to recover 100% of the grant amount. Defendant: OLAF's final report does not contain any concrete evidence for the defendant. OLAF's final report can be used as evidence in accordance with s. 50 para 4; The public administration was obliged to take the OLAF report into account."
Art. 263 TFEU	Order of the General Court (Sixth Chamber) of 20 May 2021, *IG v European Commission*, ECLI:EU:T:2021:290.	Action for annulment, Protection of the European Union's financial interests, OLAF investigation, legal professional

		privilege, Act not open to challenge, preparatory act, Inadmissibility.
Regulation (EC) No 1234/2007	CJEU, C-31/13 P *Hungary v Commission*, Judgement of 6 February 2014, EU:C:2014:70.	Non-compliance with EU law, infringement procedures.
Art. 9, 10.	CJEU, Case T-135/09, *Nexans France and Nexans v Commission*, Judgment of 14 November 2012, ECLI:EU:T:2012:596.	Legal professional privilege.
Action on annulement (of an OLAF measure)	CJEU, Judgment of 11 November 1981, *IBM v Commission*, Case 60/81, ECLI:EU:C:1981:264.	Measures, legal effects, bring a change in the position of the claimant.
Regulation (EC) No 1049/2001	CJEU, Case C-362/08 P, *Internationaler Hilfsfonds v Commission*, Judgment of 26 January 2010, ECLI:EU:C:2010:40.	Measures, legal effects, bring a change in the position of the claimant; access to documents,
System of judicial review, Art. 47 Charta of Fundamental Rights	CJEU, Case C-560/18 P, *Izba Gospodarcza Producentów i Operatorów Urządzeń Rozrywkowych v Commission*, Judgment of 30 April 2020, ECLI:EU:C:2020:330.	Access to Documents, investigation Protection, infringement Proceedings, Directive 98/34/EC, disclosure Refusal legal standing.
Article 101, 263 (application) TFEU	CJEU, Order of 29 January 2020, *Silgan Closures and Silgan Holdings v Commission*, Case C-418/19 P, not published, ECLI:EU:C:2020:43.	An action for annulment, Inadmissibility, Act not open to challenge, Effective judicial protection, Appeal in parts, manifestly inadmissible and, in part, manifestly unfounded.
Art. 52 Regulation (EU) No 1307/2013	CJEU, Case C-538/22, Request for a preliminary ruling of 11 August 2022, *Agrárminiszter*.	Agriculture, Common Agricultural Policy, Delegated Regulation (EU) No. 640/2014, Aid schemes for animals, Application for production coupled aid for keeping suckler cows, eligibility criteria, calculation basis, Not in accordance with national

		regulations Rejection of an application for aid.
Art. 41 para 2, TFEU; Art. 51 para 1 CFR	CJEU, Case C-831/18 P, *European Commission v RQ*, Judgement of 19 December 2019.	OLAF, right to be heard of a Union official, lifting of immunity, Protocol No 7.
Further national decisions		
Art. 11 OLAF Regulation.	Curia (reviewing Metropolitan Administrative Court of Budapest) C-No. Kfv.35223/2019/4	Curia Administrative Law 2020 [OLAF Report].
Art. 3, 11 OLAF Regulation.	Metropolitan Court of Budapest, Case No. .627/2017/83.	Documentary evidence against statements, OLAF inspections and their findings, witness statements.
Art. 1, 3, 5, 7 OLAF Regulation.	Metropolitan Court of Budapest, Case No. K.703802/2021/10, administrative, Unique identifier: 1-KJ-2021-365.	OLAF investigated fraudulent funding in an EU fisheries project.
Art. 11 OLAF Regulation.	Administrative and Labor Court of Szeged, Cae No. 10.K.27.522/2015/13, Unique identifier 6/6-KJ-2016-17.	Agricultural funds case, revocation, time-barred, procedural rights, Art. 11 para 2 OLAF Regulation, OLAF Report.
Art. 11 OLAF Regulation.	Tolna County Court of Szekszárd, C-No. B.133/2009/44, Decision of 26 January 2011	Criminal proceedings, closing of a case due to lack of evidence.
Art. 3, 11 OLAF Regulation.	Curia (reviewing The Court of Appeal of the Salgótarján Administrative and Labour Court (Case C-51/10) C-No: Kfv.V.35.299/2016/7	Judicial review of an administrative decision in a customs matter.

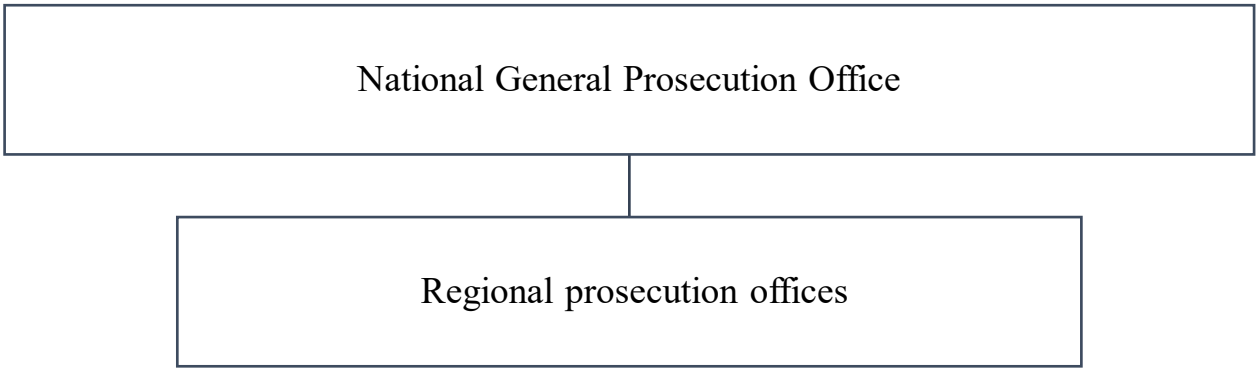
5 The national decisions cited as “further national decisions” in the table above are either presented or analysed in more detail in the volume. See below → Art. 17, Annex.

II. Institutions

1. The national prosecution services Hungary

The table shows the main and the subsequent prosecution offices. The special names and the location of these offices are explored below in → Table 2. **6**

Table 5: The national prosecution offices competent to investigate EU fraud & corruption offences in Hungary



2. Organisation of the criminal justice system in Hungary

The following table offers a view on the organisation of the criminal justice system in Hungary. **7**

Table 6: National authorities involved in PIF investigations

Translated Term	Original Term	Task
Prosecution		
General Prosecutor's Office	Legfőbb Ügyészség	Organization of the Prosecution and International Cooperation
The Attorney General Offices of Appeal · General Prosecutor's Office of Debrecen · Metropolitan Prosecutor General's Office of Appeal · General Prosecutor's Office of Győr · General Prosecutor's Office of Pécs		Prosecution in all areas

· General Prosecutor's Office of Appeal in Szeged *The Higher Attorney General Offices* · Bács-Kiskun County Prosecutor's Office · Baranya County Prosecutor's Office · Békés County Prosecutor's Office · Borsod-Abaúj-Zemplén County Prosecutor's Office · Csongrád-Csanád County Prosecutor's Office · Fejér County Prosecutor General · Metropolitan Prosecutor's Office · Győr-Moson-Sopron County Prosecutor's Office · Hajdú-Bihar County Prosecutor's Office · Heves County Prosecutor's Office · Jász-Nagykun-Szolnok County Prosecutor's Office · Komárom-Esztergom County Prosecutor's Office → · Nógrád County Prosecutor's Office · Pest County Prosecutor's Office · Somogy County Prosecutor's Office		

· Szabolcs-Szatmár-Bereg County Prosecutor's Office · Tolna County Prosecutor's Office · General Prosecutor's Office of Vas County · Veszprém County Prosecutor's Office · Zala County Prosecutor's Office *The Lower District Offices* · Baranya County · Komló District Prosecutor's Office · Mohács District Prosecutor's Office · Pécs District Attorney's Office · Siklós District Attorney's Office · Szigetvár District Prosecutor's Office · Bács-Kiskun County · Békés county · County of Borsod-Abaúj-Zemplén · Budapest · Csongrád-Csanád county · Fejér county · County of Győr-Moson-Sopron · County of Hajdú-Bihar · County of Heves · County of Jász-Nagykun-Szolnok · County of Komárom-Esztergom		

· Nógrád County · Pest county · Somogy county · County of Szabolcs-Szatmár-Bereg · Tolna county · County of Vas · County of Veszprém · County of Zala		
Police Suboffices	Rendőrség	Revenue and Expenditure
· Stand-by police · Emergency Police National Investigation Office · Airport Police Directorate · Police Education and Training Center · International Education Center · Baranya County Police Headquarters · Bács-Kiskun County Police Headquarters · Békés County Police Headquarters · Budapest Police Headquarters · Borsod-Abaúj-Zemplén County Police Headquarters · Csongrád-Csanád County Police Headquarters · Fejér County Police Headquarters · Győr-Moson-Sopron County Police Headquarters		

· Hajdú-Bihar County Police Headquarters · Heves County Police Headquarters · Jász-Nagykun-Szolnok County Police Headquarters · Komárom-Esztergom County Police Headquarters · Nógrád County Police Headquarters · Pest County Police Headquarters · Somogy County Police Headquarters · Szabolcs-Szatmár-Bereg County Police Headquarters · Tolna County Police Headquarters · Vas County Police Headquarters · Veszprém County Police Headquarters · Zala County Police Headquarters		
Customs Area		
National Tax and Customs Administrations Office	NAV – Nemzeti Adó- és Vámhivatal	Revenue and Expenditure
Tax Area National Tax and Customs Administrations Office	NAV – Nemzeti Adó- és Vámhivatal	Revenue and Expenditure
Budget Area		
Hungarian Audit Office	Állami Számvevőszék	
Ministries	Miniszterelnöki Kabinetiroda Agrárminisztérium Honvédelmi Minisztérium Pénzügyminisztérium	Distribution of different EU funds. Expenditure.

	Energiaügyi Minisztérium Építési és Közlekedési Minisztérium Európai Ügyek Minisztériuma Gazdaságfejlesztési Minisztérium Külgazdasági és Külügyminisztérium Kulturális és Innovációs Minisztérium Belügyminisztérium Igazságügyi Minisztérium Miniszterelnöki Hivatal	Ministry of Finance has as well the task to supervise the tax and customs offices.
Courts[19] (Criminal Area, OLAF-related Area for follow-up and final reports according to Art. 11) · Balassagyarmati Tribunal · Court of Debrecen The relevant, unified regional courts are: · Budapest-Capital Regional Court · Budapest Environs Regional Court · Balassagyarmat Regional Court · Debrecen Regional Court · [Other Regional Courts] · District Courts		

[19] See https://birosag.hu/ugyfeleknek/birosagi-eljarasok/buntetoeljaras. There is a Website with a Court Finder: https://birosag.hu/ugyfeleknek/birosagok/birosag-kereso. Contact to the Courts is possible via a portal and mail: https://birosag.hu/ugyfeleknek/birosagok/nyitott-birosag-kapcsolattarto-kereso. The Court decisions are published here: https://eakta.birosag.hu/anonimizalt-hatarozatok. Accessed 31 December 2024.

· Central District Court of Pest · Central District Court of Buda · Buda Environs District Court · Budapest District Court for the II. and III. Districts · Budapest District Court for the IV. and XV. Districts · Budapest District Court for the XVIII. and XIX. Districts · Budapest District Court for the XX. and XXI. Districts · Budaörs District Court · Cegléd District Court · [Other District Courts] · Company Registry Courts · Company Registry Court of Budapest-Capital Regional Court · Company Registry Court of Budapest Environs Regional Court · Company Registry Court of Debrecen Regional Court · [Other Company Registry Courts] The follwing courts are local courts and they must be seperated from the regional courts.		

· Court of Eger · Metropolitan Court · Gyula Court · Győr Court · Kaposvár Court of Justice · Kecskemét Court · Court of Miskolc · Court of Nyíregyháza · Court of Pécs · Court of Szeged · Szekszárd Court · Székesfehérvár Court of Justice · Szolnok Court · Szombathely Court · Court of Tatabánya · Veszprém Court · Zalaegerszeg Court		

Source: Own Compilation.

III. Contact to the Hungarian Prosecution Service

8 The Hungarian Prosecution Office offers a website, where it states how international cooperation is done by the Hungarian Government and its authorities.[20] In 2019 the Office e.g. received 583 requests for international cooperation. Here it states that:

- Requests for legal aid are sent and received by Hungarian prosecutors' offices.
- Further it states rules on extradition or criminal proceedings related to another EU country.

1. Request for Crimes committed in other EU countries and Extradition

9 The General Prosecution Office submits and presents the following information:

> "Hungarian prosecutors' offices send reports made in Hungary that relate to crimes committed in another EU member state directly to the competent EU prosecutor's office, if the chief prosecutor does not order that proceedings be initiated in Hungary.
> Within the Union, the handover and transfer of persons in other Member States in connection with criminal proceedings can be initiated through the European Arrest Warrant. Outside the Union, extradition gives the opportunity to do the same.
> In the case of legal aid – existent only between EU states – outside the EU there is no direct contact unless there is bilateral contract –, the prosecutor's office takes care of the

[20] See http://ugyeszseg.hu/az-ugyeszsegrol/nemzetkozi-kapcsolatok/. Accessed 31 January 2025.

preparation of the necessary translations, and often the prosecutors directly contact the representative of the foreign prosecutor's office."[21]

2. General Contact to the Prosecution Services in a Particular Police District

The following information can be important if an EDP in e.g. Germany, The Netherlands, Latvia or France needs to contact the Hungarian Prosecution for information e.g. in a VAT case etc. In normal cases it will first contact the General Prosecution Office and it needs to closely obed the Working Arrangement that the EPPO has with this Hungarian Office. 10

The Hungarian Prosecution Service has designated special offices with investigative tasks: 11

- Budapest Regional Investigative Prosecutor's Office
- Debrecen Regional Investigative Prosecutor's Office
- Győr Regional Investigative Prosecutor's Office
- Kaposvár Regional Investigative Prosecutor's Office
- Szeged Regional Investigative Prosecutor's Office

The district offices have been listed above under the heading → Institutions. 12

IV. Sources of law

In Hungary up-to-date legislation can be obtained via the **National Resource Library for Laws and Regulations** (*Nemzeti Jogszabálytár*).[22] Generally, in Hungary the legislator and the jurisprudence does not refer to the amending acts because the new rules are integrated into the old body of the act. The doctrine is that the amending act after changing the old law is out of force. The following pages present a list of the applicable sources of law. 13

1. National laws

a) Main Acts

The Fundamental Law of Hungary/*Magyarország Alaptörvénye* has a primary effect. 14

b) PIF-Investigation related Laws and administrative Documents

- XXVI of 2008 Act CIV of 2001 on criminal law measures applicable to legal entities. on amending the law/*2008. évi XXVI. törvény a jogi személlyel szemben* 15

[21] See http://ugyeszseg.hu/az-ugyeszsegrol/nemzetkozi-kapcsolatok/bunugyi-egyuttmukodes-a-kulfoldi-ugyeszsegekkel/. Accessed 31 December 2024.

[22] See https://njt.hu/: "A Nemzeti Jogszabálytár egy web alapú szolgáltatás, amely jogszabályban meghatározott körben ingyenesen hozzáférhető jogszabálytár szolgáltatást biztosít számítógépen és mobiltelefonon."
Pls. be aware that: "Please note that, in accordance with the Fundamental Law of Hungary and Act CXXX of 2010 on law-making, unless provided otherwise in a cardinal Act, only laws promulgated in the official gazette of Hungary are binding and have legal effect. The translations published on this website serve informational purposes only, have no legal effect, and cannot be considered the official text of Hungarian laws."
In addition to that i.e. the state-based access, private operators offer access to Hungarian legislation online (in an open access format).

alkalmazható büntetőjogi intézkedésekről szóló 2001. évi CIV. törvény módosításáról

- Criminal Code/*Act C of 2012 2012. évi C. törvény/Büntető Törvénykönyv*[23]
- Criminal Procedure Act/*2017. évi XC. Törvény a büntetőeljárásról*[24]
- Law CLXIII of 2011 on the prosecution./*Az ügyészségről szóló 2011. évi CLXIII. törvény*
- Attorney's at law Act (Legal Counsel Act)[25]/*Ügyvédi törvény (jogtanácsosi törvény)*
- Act LXXVIII of 2017 on the activities of lawyers/*2017. évi LXXVIII. törvény az ügyvédi tevékenységről*
- Instruction Law 9/2018 on prosecutorial duties related to the preparatory procedure, supervision and management of the investigation, and final measures. (VI. 29.)/*A fiatalkorúak büntetőügyeivel kapcsolatos ügyészségi szakfeladatok ellátásáról szóló 11/2018. (VI. 29.) LÜ utasítás.*
- Instruction Law 12/2018 on the prosecution investigation. (VI. 29.)/*Az ügyészségi nyomozásról szóló 12/2018. (VI. 29.) LÜ utasítás.*
- Law Instruction 8/2018 on prosecutorial activity before the criminal court. (VI. 27.)/*A büntetőbíróság előtti ügyészi tevékenységről szóló 8/2018. (VI. 27.) LÜ utasítás.*

16 Further law acts on the organization of the prosecution, its tasks, the criminal law rules and the public law rules can be obtained on the Website of the General Prosecutor's Office.[26]

c) Most relevant national Laws concerning OLAF investigations

17

- LXVI of 2011 Act on the State Audit Office/*Az Állami Számvevőszékről szóló 2011. évi LXVI. törvény*
- LXXXVI of 2015 Act CXXII of 2010 on the National Tax and Customs Administrations Office/2015. *évi LXXXVI. törvény a Nemzeti Adó- és Vámhivatalról szóló 2010. évi CXXII.*
- CLXXX of 2012. Act on criminal cooperation with the member states of the European Union
- XIII of 2016 Act on the implementation of EU customs law/*XIII of 2016 Act on the implementation of EU customs law*
- CXXV of 2018 law on government administration/*2018. évi CXXV. törvény a kormányzati igazgatásról*

[23] See https://njt.hu/jogszabaly/en/2012-100-00-00. Accessed 31 December 2024.
[24] See https://njt.hu/jogszabaly/en/2017-90-00-00. [Act XC of 2017 on the Code of Criminal Procedure (as in force on 1 March 2022) This document has been produced for informational purposes only.]. In fact this document suffices for the present study as it provides a translation in the lingua franca, which is enough to orientate onself in foreign legislation- as e.g. foreign justice and prosecution services as well as the EPPO and OLAF might do.
[25] See https://njt.hu/jogszabaly/en/2017-78-00-00. Accessed 31 December 2024.
[26] See http://ugyeszseg.hu/az-ugyeszsegrol/ugyeszsegre-vonatkozo-szabalyok/. Accessed 31 December 2024.

- LXVIII of 2016 law on excise duty/*2016. évi LXVIII. törvény a jövedéki adóról*

2. Special laws, decrees, working arrangements

a) Introductory Note

There is no *lex specialis* to the actions of the EPPO in Hungary, yet as the EPPO is only a Union body with power in the participating countries (enhanced cooperation, Art. 86 TFEU para 1, subpara 1) and can not enforce any legal action these days. But Hungary has concluded a **Working Agreement** with the EPPO according to Art. 105 EPPO Regulation, which shall be presented here as it shall facilitate cooperations: **18**

b) Relevant Union law (Regulation (EU) 2017/1939) for a Working Arrangement

Chapter X Provisions On The Relations Of The Eppo With Its Partners
Article 99 Common provisions
1. In so far as necessary for the performance of its tasks, the EPPO may establish and maintain cooperative relations with institutions, bodies, offices or agencies of the Union in accordance with their respective objectives, and with the authorities of Member States of the European Union which do not participate in enhanced cooperation on the establishment of the EPPO, the authorities of third countries and international organisations.
2. In so far as relevant to the performance of its tasks, the EPPO may, in accordance with Article 111, directly exchange all information, with the entities referred to in paragraph 1 of this Article, unless otherwise provided for in this Regulation.
3. For the purposes set out in paragraphs 1 and 2, the EPPO may conclude working arrangements with the entities referred to in paragraph 1. Those working arrangements shall be of a technical and/or operational nature, and shall in particular aim to facilitate cooperation and the exchange of information between the parties thereto. The working arrangements may neither form the basis for allowing the exchange of personal data nor have legally binding effects on the Union or its Member States

Article 105 Relations with Member States of the European Union which do not participate in enhanced cooperation on the establishment of the EPPO
1. The working arrangements referred to in Article 99(3) with the authorities of Member States of the European Union which do not participate in enhanced cooperation on the establishment of the EPPO may in particular, concern the exchange of strategic information and the secondment of liaison officers to the EPPO.
2. The EPPO may designate, in agreement with the competent authorities concerned, contact points in the Member States of the European Union which do not participate in enhanced cooperation on the establishment of the EPPO in order to facilitate cooperation in line with the EPPO's needs.
3. In the absence of a legal instrument relating to cooperation in criminal matters and surrender between the EPPO and the competent authorities of the Member States of the European Union which do not participate in enhanced cooperation on the establishment of the EPPO, the Member States shall notify the EPPO as a competent authority for the purpose of implementation of the applicable Union acts on judicial cooperation in criminal matters in respect of cases falling within the competence of the EPPO, in their relations with Member States of the European Union which do not participate in enhanced cooperation on the establishment of the EPPO.

c) Working Arrangement of the EPPO and the Chief Prosecutor's Office

19 Official Title: Working Agreement on Cooperation between the European Prosecutor's Office (EPPO) and Chief Prosecutor's Office of Hungary[27]

The European Public Prosecutor's Office, hereinafter "EPPO", and General Prosecutor's Office of Hungary, hereinafter referred to as "Parties",[28]
Based on the principle of loyal cooperation (Article 4 (3) of the Treaty on the European Union) and the principle of enhanced cooperation (Article 327 of the Treaty on the Functioning of the European Union).[29]

Synopsis 1: Working Arrangement of the EPPO and Hungary

English Text	**Hungarian Original**
Based on the principle of loyal cooperation (Article 4 (3) of the Treaty on the European Union) and the principle of enhanced cooperation (Article 327 of the Treaty on the Functioning of the European Union),	A lojális együttműködés elve (az Európai Unióról szóló szerződés 4. cikk (3) bekezdése), valamint a megerősített együttműködés működése alapelve (az Európai Unió működéséről szóló szerződés 327. cikke) alapján,

[27] Az Európai Ügyészség (Eppo) És Magyarország Legfőbb Ügyészsége Közötti Együttműködésről Szóló Munkamegállapodás.
[28] Az Európai Ügyészség, továbbiakban "EPPO", és Magyarország Legfőbb Ügyészsége, továbbiakban "Felek",[…].
[29] A lojális együttműködés elve (az Európai Unióról szóló szerződés 4. cikk (3) bekezdése), valamint a megerősített együttműködés működése alapelve (az Európai Unió működéséről szóló szerződés 327. cikke) alapjn.

Having regard to Council Regulation (EU) 2017/1939 of 12 October 2017 on the introduction of enhanced cooperation on the establishment of the European Public Prosecutor's Office ("EPPO"), hereinafter "EPPO Regulation", and in particular Article 99(3) thereof, and to the provisions of Article 105,	Tekintettel a Tanács (EU) 2017/1939 2017. október 12. napján kelt, az Európai Ügyészség ("EPPO") létrehozására vonatkozó megerősített együttműködés bevezetéséről szóló rendeletére, továbbiakban "EPPO rendelet", és különösen annak 99. cikk (3) bekezdésében, valamint 105. cikkében foglaltakra,
Taking into account European Union legal acts on judicial cooperation in criminal matters, including, but not limited to, decisions enforcing the principle of mutual recognition of judicial decisions on the relations of the EPPO with Member States not participating in enhanced cooperation on the establishment of the EPPO, prepared by the Presidency of the Council (document 13147/1/20 REV 1),	Figyelembe véve a büntetőügyekben folytatott igazságügyi együttműködésre vonatkozó európai uniós jogi aktusokat, ideértve, de nem kizárólag a bírósági határozatok kölcsönös elismerésének elvét érvényesítő döntéseket, amelyekről a Tanács Elnöksége által készített, az EPPO-nak az EPPO létrehozására vonatkozó megerősített együttműködésben részt nem vevő tagállamokkal való kapcsolatáról szóló jelentés tesz említést (13147/1/20 REV 1 dokumentum),
Taking note of the provisions of Article 105(3) of the EPPO Regulation on the notifications notified by the Member States participating in enhanced cooperation on the establishment of the EPPO,	Tudomásul véve az EPPO rendelet 105. cikk (3) bekezdésének rendelkezéseit az EPPO létrehozására vonatkozó megerősített együttműködésben részt vevő tagállamok által bejelentett értesítésekről,
Taking into account the intention of the Parties to establish close cooperation in order to protect the financial interests of the European Union with investigative and prosecutorial means,	Figyelemmel a Felek azon szándékára, hogy szoros együttműködést alakítsanak ki az Európai Unió pénzügyi érdekeinek nyomozási és ügyészi eszközökkel történő védelme érdekében,
In order to promote the cooperation and exchange of information between the Parties in order to ensure an effective	A Felek közötti együttműködés és információcsere hatékony nyomozás és vádhatósági eljárás biztosítása céljából

investigation and prosecution procedure, in full respect of the Charter of Fundamental Rights of the European Union, and in order to be able to prosecute persons suspected or accused of crimes against the budget of the European Union without delay to conduct	történő elősegítése érdekében, az Európai Unió Alapjogi Chartájának teljes mértékű tiszteletben tartása mellett, és annak érdekében, hogy az Európai Unió költségvetését sértő bűncselekmények elkövetésével gyanúsított vagy vádolt személyek ellen késedelem nélkül bírósági eljárást lehessen lefolytatni,
THE PARTIES HAVE AGREED AS FOLLOWS: CHAPTER I General provisions.	A FELEK A KÖVETKEZŐKBEN ÁLLA-PODTAK MEG: FEJEZET Általános rendelkezések.
Article 1 Goals (1) The purpose of this Employment Agreement is to facilitate the practical application of judicial cooperation between the Parties in criminal cases within the already existing legal framework.	1. cikk Célok (1) A jelen Munkamegállapodás célja a Felek közötti, büntetőügyekben folytatott igazságügyi együttműködés gyakorlati alkalmazásának elősegítése a már meglévő jogi kereteken belül.
(2) In accordance with the provisions of this Employment Agreement, the Parties shall carry out strategic information exchange and establish other forms of operational and institutional cooperation.	(2) A Felek a jelen Munkamegállapodás rendelkezéseivel összhangban stratégiai információcserét folytatnak, valamint megteremtik az operatív és intézményi együttműködés egyéb formáit.
(3) In order to collect evidence and to implement other forms of judicial cooperation between them, the Parties shall apply the acts of the European Union on judicial cooperation in criminal matters and, where applicable, other multilateral legal instruments.	(3) A Felek a bizonyítékok összegyűjtése, továbbá a köztük folytatott igazságügyi együttműködés egyéb formáinak végrehajtása céljából alkalmazzák az Európai Unió büntetőügyekben folytatott igazságügyi együttműködésre vonatkozó aktusait, illetve adott esetben az egyéb multilaterális jogi eszközöket.
(4) With regard to data protection, the Parties apply the relevant acts of the European	(4) Az adatvédelem tekintetében a Felek alkalmazzák az Európai Unió

Union and the corresponding national legal provisions.	vonatkozó aktusait és az ezeknek megfelelő nemzeti jogszabályi rendelkezéseket.
Article 2 Definitions For the purposes of this Employment Agreement: a) "personal data" means an identified or identifiable natural person any information concerning ("data subject"); the natural person who can be identified directly or indirectly, in particular by an identifier such as a name, identification number, location data, online identifier or the natural person's physical, physiological, genetic, mental, economic, can be identified based on one or more factors related to their cultural or social identity; and b) 'Information' means personal or non-personal data.	2. cikk Fogalommeghatározások Ezen Munkamegállapodás alkalmazásában: a) 'személyes adat' alatt értendő az azonosított vagy azonosítható természetes személyre ("érintett") vonatkozó bármely információ; azonosítható az a természetes személy, aki közvetlen vagy közvetett módon, különösen valamely azonosító, például név, azonosító szám, helymeghatározó adat, online azonosító vagy a természetes személy fizikai, fiziológiai, genetikai, szellemi, gazdasági, kulturális vagy szociális azonosságára vonatkozó egy vagy több tényező alapján azonosítható; valamint b) 'Információ' alatt értendő a személyes vagy személyes adatnak nem minősülő adat.
II. Chapter Operational cooperation in criminal cases	II. Fejezet Büntetőügyekben folytatott operatív együttműködés
Article 3 Judicial cooperation (1) In accordance with Article 105 (3) of the EPPO Regulation, the Parties shall provide each other with the widest possible assistance when applying relevant legal instruments for judicial cooperation in criminal matters. (2) The Parties engage in direct cooperation at the operational level. Requests to the EPPO or court decisions must be sent to the Central Office. Inquiries addressed to the Prosecutor General's Office of Hungary or court decisions must be sent to the	3. cikk Igazságügyi együttműködés (1) Az EPPO rendelet 105. cikk (3) bekezdésének megfelelően a Felek a lehető legszélesebb körű segítséget nyújtják egymásnak a büntetőügyekben folytatott igazságügyi együttműködés releváns jogi eszközeinek alkalmazásakor. (2) A Felek operatív szinten közvetlen együttműködést folytatnak. Az EPPO-hoz intézett megkereséseket vagy bírósági határozatokat a Központi Hivatalnak kell megküldeni. A Magyarország Legfőbb Ügyészségéhez intézett

Department of Priority, Corruption and Organized Crime Cases.	megkereséseket vagy bírósági határozatokat a Kiemelt, Korrupciós és Szervezett Bűnözés Elleni Ügyek Főosztályának kell megküldeni.
(3) For the purposes of this article, the Parties shall communicate in the language prescribed by the applicable legal instrument.	(3) E cikk alkalmazásában a Felek az alkalmazandó jogi eszköz által előírt nyelven kommunikálnak.
Article 4 EPPO contacts in Hungary	4. cikk EPPO kapcsolattartók Magyarországon
In accordance with Article 105 (2) of the EPPO Regulation, the Parties agree that the EPPO appoints the head of the Department of Priority, Corruption and Organized Crime Cases of the General Prosecutor's Office as the contact person for operational and case-related cooperation.	Az EPPO rendelet 105. cikke (2) bekezdésével összhangban a Felek megállapodnak, hogy az EPPO az operatív és az ügyekhez kapcsolódó együttműködés feladatára kapcsolattartónak a Legfőbb Ügyészség Kiemelt, Korrupciós és Szervezett Bűnözés Elleni Ügyek Főosztályának vezetőjét jelöli ki.
Article 5 Liaison assigned to the EPPO	5. cikk Az EPPO-hoz kirendelt összekötő
(1) In order to facilitate the application of this Employment Agreement, and in particular to support operational cooperation between the Parties, the Office of the Prosecutor General of Hungary may assign a liaison officer to the EPPO headquarters in Luxembourg.	(1) A jelen Munkamegállapodás alkalmazásának elősegítése céljából, és különösen a Felek közötti operatív együttműködés támogatása érdekében Magyarország Legfőbb Ügyészsége összekötő munkatársat rendelhet ki az EPPO luxemburgi székhelyére.
(2) The EPPO shall provide an office and technical equipment for the liaison officer assigned to its headquarters, as well as the necessary logistical support. All other costs of the secondment are covered by the Prosecutor General's Office of Hungary.	(2) Az EPPO a székhelyére kirendelt összekötő munkatárs számára irodát, technikai eszközöket biztosít, valamint szükséges logisztikai támogatást nyújt. A kirendelés összes egyéb költségét Magyarország Legfőbb Ügyészsége fedezi.
(3) provide assistance. All other costs of the secondment are covered by the Prosecutor General's Office of Hungary on specific provisions related to	(3) mogatást nyújt. A kirendelés összes egyéb költségét Magyarország Legfőbb Ügyészsége fedezi.A Felek levélváltás

	útján állapodnak meg az összekötő munkatárs kirendelésével kapcsolatos konkrét rendelkezésekről.
Article 6 IT technology background The Parties agree in a separate document on the technical parameters of the exchange of information and evidence related to the cases through secure channels, as well as the handling of classified documents.	6. cikk Információs technológiai háttér A Felek külön dokumentumban állapodnak meg az ügyekhez kapcsolódó információk és bizonyítékok biztonságos csatornákon történő cseréjének, valamint a minősített iratok kezelési módjának technikai paramétereiről.
III. Chapter Strategic cooperation and institutional issues	III. Fejezet Stratégiai együttműködés és intézményi kérdések
Article 7 Exchange of strategic and other information (1) The Parties may exchange information regarding any strategic information that is not classified as operational information in matters within their jurisdiction.	7. cikk Stratégiai és egyéb információk cseréje (1) A Felek a hatáskörükbe tartozó ügyekben bármely stratégiai és egyéb, műveleti információnak nem minősülő információt érintően információcserét végezhetnek.
(2) The information specified in paragraph (1) may not contain personal data.	(2) Az (1) bekezdésben meghatározott információ nem tartalmazhat személyes adatot.
Article 8 Meetings and other events (1) The Parties regularly organize high-level meetings between the European Prosecutor General and the Prosecutor General of Hungary, as well as technical meetings, both at the operational and administrative levels. (2) The Parties may cooperate in the organization of trainings concerning issues of mutual interest, and may also invite each other to seminars, workshops, conferences and other similar events in which they are mutually involved.	8. cikk Találkozók és egyéb események (1) A Felek rendszeresen szerveznek magas szintű, az Európai Főügyész és Magyarország Legfőbb Ügyésze közötti találkozókat, valamint technikai értekezleteket, mind operatív mind adminisztratív szinten. (2) A Felek együttműködhetnek közös érdeklődésre számot tartó kérdéseket érintő képzések szervezésében, továbbá meghívhatják egymást szemináriumokra, workshopokra, konferenc-

	iákra és egyéb hasonló eseményekre, melyekben kölcsönösen érintettek
Article 9 The channels and language of contact at the institutional level (1) At the administrative level and in matters of cooperation related to the trainings, the Parties maintain contact through the Directorate on behalf of the EPPO, and the Department of International and European Affairs on behalf of the Prosecutor General's Office of Hungary. (2) In administrative matters, as well as in the case of cooperation at the institutional level, the language of contact is English.	9. cikk Az intézményi szintű kapcsolat- tartás csatornái és nyelve (1) Igazgatási szinten és a képzésekhez kapcsolódó együttműködési kérdésekben a Felek az EPPO részéről az Igazgatóság, Magyarország Legfőbb Ügyészségének részéről a Nemzetközi és Európai Ügyek Főosztályán keresztül tartanak kapcsolatot. (2) Igazgatási ügyekben, valamint az intézményi szintű együttműködés esetén a kapcsolattartás nyelve az angol.
IV. Chapter Final provisions	IV. Fejezet Záró rendelkezések
Article 10 Appointments The Parties shall consult on all issues that may result in a different interpretation of this Employment Agreement.	10. cikk Egyeztetések A Felek egyeztetést folytatnak minden olyan kérdést illetően, amely a jelen Munkamegállapodás eltérő értelmezését eredményezheti.
Article 11 Costs Unless otherwise provided for in the Work Agreement, the Parties shall bear their own costs incurred in the performance of this Work Agreement.	11. cikk Költségek A Munkamegállapodás eltérő rendelkezése hiányában, a Felek maguk viselik a jelen Munkamegállapodás végrehajtása során felmerülő saját költségeiket.
Article 12 Amendments This Working Agreement may be amended at any time by mutual written agreement of the Parties	12. cikk Módosítások A jelen Munkamegállapodás a Felek kölcsönös, írásbeli megállapodásával bármikor módosítható
Article 13 Entry into force This Employment Agreement shall enter into force on the date of its last signature.	13. cikk Hatálybalépés A jelen Munkamegállapodás az utolsó aláírásának napján lép hatályba.

Article 14 Termination of the Employment Agreement (1) This Employment Agreement can be terminated by either Party in writing, with a three-month notice period can cancel it. (2) In the event of termination, the Parties agree on the further use of the data already provided and its storage.	14. cikk A Munkamegállapodás megszűnése (1) A jelen Munkamegállapodást bármelyik Fél írásban, három hónapos felmondási idővel megszüntetheti. (2) Megszűnés esetén a Felek megállapodnak a már közölt adatok további felhasználásáról és tárolásáról.[30]

Example: Imagining a German EDP from the Frankfurt Regional Office of the EPPO wants to obtain evidence or conduct a case with relation to a VAT carousel involving Hungarian companies or citizens, we assume according to the cited WA, that this EDP should establish a contact, **cooperate with Hungary's Prosecutor General's Office**, specifically the Department for Priority, Corruption, and Organized Crime Cases. The EPPO is the competent authority for EU financial crimes, including VAT fraud, and uses EU judicial cooperation mechanisms. The EDP can thus **request assistance** from Hungarian authorities to gather evidence, such as financial records, conducting searches, or interviewing witnesses. These requests must comply with EU regulations, such as the EIO, and ensure respect for the Charter of Fundamental Rights of the EU.

Communication with Hungarian authorities is typically conducted through an **EPPO liaison**, with the head of the relevant department serving as the main contact. The EPPO invites a **Hungarian liaison officer** in its HQ. While a case manager or assistant may not always be necessary, they can support coordination, particularly in complex cases like VAT fraud investigations. Cooperation between the EPPO and Hungarian authorities follows the principle of loyal cooperation, ensuring effective exchange of information. As mentioned above, **high-level meetings** and joint events may be held to enhance and make the collaboration even better. For administrative matters, **English is used as the common language**, while judicial cooperation follows specific legal language requirements. Both the EPPO and Hungarian authorities must adhere to EU data protection laws and secure handling of classified documents. Strategic cooperation can also occur through information exchange and **joint training** on EU financial crimes. **20**

The EDP can collaborate effectively with Hungarian authorities through established judicial channels and proper contacts. Art. 10 regulates the interpretation of the provisions of the WA if the parties have different understandings. All parties bear their **own costs**. All data must be protected according to the WA in order not to create situations, which lead to the invalidity of any action or legal disputes with persons concerned. Legal **21**

[30] Signed in Kelt, Luxemburg 26.03.2021. by ECP EPPO Laura KÖVESI and The General Prosecutor's Office of Hungary POLT Péter.

appeals against the WA should not be possible as it is an internal administrative document without direct legal effect *vis-à-vis* third parties, but this opinion remains challengable.

d) Cooperation with Hungarian Justice Authorities

22 Cooperation with Hungarian justice authorities is essential – especially as long as Hungary is not a Member of the EPPO as fraud risks are high. In this case various possibilities of **jurisdiction for PIF offences**[31] exist and cooperation ensures a steady **flow of information** about potential suspicious acitivites, organized groups, companies, economic operators and situations within the **interal market**. As Hungary is a **gateway** for e.g. Chinese products to the internal market, the **customs perspective** is important, too.

V. Reasons for Cooperation and Legal Acts for Cooperation

1. Reasons for Cooperation

23 The cooperation with Hungarian justice authorities is important in cross-border sales fraud scenarios, in customs fraud related cases as well as in huge infrastructure projects e.g. and **VAT**[32] and **MTIC frauds** (reselling of mobile phones[33]). The risk of high damaging frauds is real and the past has shown that Europol and Eurojust had to deal with cases that involved either **Hungarian authorities** for the investigation or Hungarian nationals, which were involved in conduct that was investigated. It might as well happen that European citizens residing in or fleeing to Hungary "try to hide" from the jurisdiction of the EPPO. It is therefore important to assess whether the EPPO may request on the grounds of mutual recognition or other laws e.g. the extradition of natural persons.

2. Legal Acts for Cooperation

24 Legal Acts for cooperation with the Hungarian Prosecution are:

- The European Convention on Mutual Legal Assistance in Criminal Matters, signed in Strasbourg on April 20, 1959
- Convention of 29 May 2000 on mutual criminal legal assistance between the member states of the European Union
- Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters.
- Law CLXXX of 2012 on criminal cooperation with the member states of the European Union.

[31] See Karsai 2019. Miskolci Jogi Szemle 14. évfolyam, 2. különszám 1. kötet, 2019.
[32] See Europol, Hungarian authorities break up €8 million VAT fraud scheme, https://www.europol.europa.eu/media-press/newsroom/news/hungarian-authorities-break-%E2%82%AC8-million-vat-fraud-scheme.
[33] See Europol, €14.2 million seized from cross-border VAT fraudsters in Hungary, https://www.europol.europa.eu/media-press/newsroom/news/%E2%82%AC142-million-seized-cross-border-vat-fraudsters-in-hungary. Accessed 31 December 2024.

Nota bene: The Law XXXVIII of 1996 on international criminal legal assistance does *not* apply for EU member states.[34]

VI. Impact of the EPPO investigations for Hungarian Justice Authorities

The Regulation addresses the communication of the EPPO with **non-participating countries**. It is therefore realistic and accepts that these countries were sceptical about the new EU institution and reluctant in the political debate but it in the same vein enforces the EU's power in the area of criminal justice and realises the idea that an internal market shall not been an internal market for criminals. Art. 104 and 105 EPPO RG enable the EPPO to connect with these countries on a formal basis. 25

VII. Hungarian Participation in Eurojust/EPPO

Hungary can be contacted via Eurojust[35]. The EPPO and Eurojust concluded a WA. It foresees that the EPPO can request Eurojust's assistance in cases involving non-participating Member States like Hungary.[36] According to **Art. 8 WA** the transmission and execution of letters rogatory and judgments is possible, which is in accordance with **Art. 100 para 2 (a) EPPO-RG**. This includes support in judicial cooperation, cross-border investigations, and coordination of joint actions. organization of coordination meetings; According to **Art. 9 a to d WA** the conduct of coordinated simultaneous investigations (coordination centers), the establishment of joint investigation teams and their operational work; the prevention and resolution of jurisdictional conflicts is possible. And in operational matters falling within the EPPO's jurisdiction, Eurojust may, where appropriate, request the EPPO's assistance.For the establishment of JITs, the EJN and Eurojust have issued a practical Guide in 2021, which we refer to. Hungary has been assessed as a very good companion for Eurojust by the President of Eurojust in 2018.[37] 26

VIII. Hungarian Cooperation with Europol/EPPO

Cooperation via Europol as an intergovernmental co-operation is strong[38] and it has contact to all Hungarian law enforcement authorities.[39] The Europol Regulation refers to EPPO in Art. 18a, 20a (report to EPPO), 74a and the EPPO has a WA with the EPPO.[40] 27

[34] See http://ugyeszseg.hu/az-ugyeszsegrol/ugyeszsegre-vonatkozo-szabalyok/. Accessed 31 January 2025.

[35] Be aware of the current information displayed on its website, https://www.eurojust.europa.eu/states-and-partners/member-states/hungary: "The Hungarian Desk was headed by László Venczl until 2024 and is now headed by *Ms Eszter Mária Köpf*. In 2022, the Hungarian Desk was involved in 423 new cases, 27 coordination meetings, 2 coordination centres, and 19 joint investigation teams."

[36] See WA https://www.eurojust.europa.eu/sites/default/files/2021-02/working_arrangement_eppo_hu.pdf.

[37] See Hungarian General Prosecution Office, https://bit.ly/4h3CX1J. Accessed 31 January 2025.

[38] Hungarian National Police Headquarters – International Law Enforcement Cooperation Center – Europol National Unit – Address 4-6 Teve Street, Budapest 1139, Hungary – Tel. + 36 1443 5735, Fax +36 1443 5815.

[39] See Europol, https://www.europol.europa.eu/partners-collaboration/member-states/hungary. Accessed 31 December 2024. This includes the Tax and Customs Administration (*Nemzeti Adó- és Vámhivatal*) and the Hungarian National Police (*Magyar Rendőrség*).

[40] See WA EPPO and Europol https://www.eppo.europa.eu/sites/default/files/2021-01/EPPO%20_Europol_Working_Arrangement.pdf. Accessed 31 January 2025. Non-participating Member States are required to comply with the obligations under the EPPO Regulation when engaging with the EPPO through Europol, particularly in cases where the EPPO could exercise its competence (Article 20a para 4).

C. An Introduction into Criminal Investigations of PIF Offences

I. The Start of Criminal investigations based on national law

Despite these possbile gateways for the EPPO to gather information in and from Hungary, Hungary investigates and prosecutes PIF *acquis* offences such as public procurement frauds[41] on its own but the following chapter includes a hypothetical verification of the **compliance of the national system with** the EPPO mechanism. The criminal investigations gathering evidence on fraud offences is detrimental to the EU in Hungary are are thus still based primarily on national prosecution offices. This situation might change one day if Hungary enters the enhanced cooperation and becomes a Member of the EPPO.[42] Hungary is under pressure as it can only receive access to EU funds, if it installes a proper system fighting EU frauds. It has no good footing as it often disrespects EU institutions according to journalists.[43] 1

The following chapter nevertheless explores side-by-side to today's national investigation and prosecution structure, **hypothetical considerations** with regard to such a future. This enables the reader to see the differenes and commonalities at the same time and offers an introduction into Hungarian **national criminal procedure law**. 2

In the following chapter the compendium offers hypothetical considerations for Article 26 in a partial manner, whereby the first part under → IV. may be read like an introduction into the *PIF Acquis* area in Hungary presenting the different offences (especially the law text e.g. of Budget fraud, s. 396 CC) and partially we strive to comment on hypothetical considerations: What would happen if Art. 27 EPPO would apply in Hungary one day? Whom from what the EDPs then evocate cases? 3

Part 3, which it titled conducting fraud investigations in Hungary can be read like an analogy to the wording of Art. 28 EPPO Regulation. It can be seen both for national inquiries and for **hypothetical considerations**. It deals with the question which authorities the public prosecutor's office can contact and *de facto* request to help in their investigations in Hungary. Who may be **instructed and commanded** by the national prosecution offices? How are Hungarian criminal police, customs and tax investigators organised and "armed" against **occurrences of EU fraud**? Do they have any special *awareness structures* of EU fraud that they practice and would this structure be helpful for future EDPs? Even if no EDPs were deployed in Hungary any time soon, how are these authorities already helping under the existing Working Arrangement? 4

This information also helps defense lawyers to get an idea of the situation about the national authorities when **transnational cases** arise in which the EPPO investigates and, for example, wants to have suspects who have fled extradited to Hungary (but see also 5

[41] See European Commission (OLAF) 2017c, p. 1 passim.
[42] Karsai 2021, p. 1 passim.
[43] See Bortoletto 2024, eunews Article of 09.12.2024, Hungarian intelligence services allegedly spied on European officials https://www.eunews.it/en/2024/12/09/hungarian-intelligence-services-allegedly-spied-on-european-officials/. Accessed 31 January 2025.

the considerations on arrest and pre-trial detention in Hungary, → Hypothetical considerations on Art. 33 EPPO).

6 Art. 29 exists in the national framework as well as at the supranational level. The deputies and civil servants who are specially protected are in fact particularly immune to corruption and tax investigations. This is a general, transnational principle. The only question is how far it will be taken to the political extreme or whether there is serious interest in clarification, which should be normal for constitutional states and a "**checks and balances**" structure of states. In the compendium, the provisions of the Fundamental Law are presented and briefly explained.

7 The next point to address is investigative measures and their scope. What measures are available to national prosecutors in Hungary and how do they respond to legislative measures to continue investigating effectively in the digital age? The individual measures that Art. 30 EPPO Regulation knows are also gone through here and excerpts from the CPC are presented.

8 Art. 33, which deals with **arrest and pre-trial detention**, is also addressed hypothetically, whereby the explanations can also be read for the currently applicable situation, since they are the substantive power regulations of today's Hungarian criminal procedure code. Pre-trial detention has become more frequent in cases of fraud, it seems, since cases of investigation – especially in the case of customs and procurement fraud as well as VAT fraud – are becoming more and more extensive. The Hungarian crime statistics can be obtained online.[44]

9 This volume helps the reader to get an overview of the investigations into fraud matters. It is rounded off with some brief reflections on fraud defenses in Hungary and presents the applicable national law. First of all we can recall how an **investigation into a PIF fraud** could start as this has relevance for all authorities and how it would evolve typically: As long as no EDPs investigate in Hungary, the national authorities need to be informed of **any suspicion or perception of an irregularity**.[45] The **investigation process** can start based on authority observations, denunciations by managing authorities, or covert data collection. If an investigation would be initiated by an authority other than the prosecutor, the prosecutor must be **notified within 24 hours**.[46] If fraud suspicion is confirmed, the case proceeds to investigation phase. Evidence must be legally obtained, and procedural rules (e.g., defendant rights) must be respected. Then the prosecutor will need to conduct the investigation to **gather evidence** e.g. by covert **investigative methods**, such as wiretapping, data interception, and undercover surveillance, which require judicial or prosecutorial approval. Below we will show that Hungarian CPC aligns with Art. 30, allowing prosecutors to search, seize, and intercept communications.

[44] See https://bit.ly/3fItL9m. Accessed 31 December 2024.
[45] Csongor 2018, p. 5 with an overview of all Hungarian phases from investigation to trial to judicial procedures of first and second instance.
[46] Csongor 2018, p. 24.

1. Initiation of investigations and allocation of competences

Article 26 [The relevant Union Law, if Hungary would be part of the EPPO.]
1. Where, in accordance with the applicable national law, there are reasonable grounds to believe that an offence within the competence of the EPPO is being or has been committed, a European Delegated Prosecutor in a Member State which according to its national law has jurisdiction over the offence shall, without prejudice to the rules set out in Article 25(2) and (3), initiate an investigation and note this in the case management system.2. Where upon verification in accordance with Article 24(6), the EPPO decides to initiate an investigation, it shall without undue delay inform the authority that reported the criminal conduct in accordance with Article 24(1) or (2).
3. Where no investigation has been initiated by a European Delegated Prosecutor, the Permanent Chamber to which the case has been allocated shall, under the conditions set out in paragraph 1, instruct a European Delegated Prosecutor to initiate an investigation.
4. A case shall as a rule be initiated and handled by a European Delegated Prosecutor from the Member State where the focus of the criminal activity is or, if several connected offences within the competences of the EPPO have been committed, the Member State where the bulk of the offences has been committed. A European Delegated Prosecutor of a different Member State that has jurisdiction for the case may only initiate or be instructed by the competent Permanent Chamber to initiate an investigation where a deviation from the rule set out in the previous sentence is duly justified, taking into account the following criteria, in order of priority:
(a) the place of the suspect's or accused person's habitual residence;
(b) the nationality of the suspect or accused person;
(c) the place where the main financial damage has occurred.
5. Until a decision to prosecute under Article 36 is taken, the competent Permanent Chamber may, in a case concerning the jurisdiction of more than one Member State and after consultation with the European Prosecutors and/or European Delegated Prosecutors concerned, decide to:
(a) reallocate the case to a European Delegated Prosecutor in another Member State;
(b) merge or split cases and, for each case choose the European Delegated Prosecutor handling it,
if such decisions are in the general interest of justice and in accordance with the criteria for the choice of the handling European Delegated Prosecutor in accordance with paragraph 4 of this Article.
6. Whenever the Permanent Chamber is taking a decision to reallocate, merge or split a case, it shall take due account of the current state of the investigations.
7. The EPPO shall inform the competent national authorities without undue delay of any decision to initiate an investigation.

Table 7: Overview Box: Investigating fraud cases in Hungary (PIF offences etc.) **1**

Overview	
Relevant national law	Sources: Criminal Code/*Büntető Törvénykönyv*; Criminal Procedure Act/2017. évi XC. *Törvény a büntetőeljárásról*; LXXXVI of 2015 Act CXXII of 2010 on the National Tax and Customs Administrations Office./2015. évi LXXXVI. *törvény a Nemzeti Adó- és Vámhivatalról szóló* 2010. évi CXXII; and see Working Agreement 2021.
"an offence whoich would be within the competence of the EPPO" **Sanctions for natural persons**	For the text of the offences that are mentioned by Art. 26 EPPO Regulation "an offence within. See below → "The PIF offences in Hungary", → C. I. 1. b) dd) (1). The general rules of the Criminal Code/*Büntető Törvénykönyv* apply.
"[competence of] a European Delegated Prosecutor in a Member State [Hungary]"	At the moment Hungary has no EDPs. Hungary is not yet part of the enhanced cooperation according to Art. 86 TFEU para 1 subpara 1. Hungary has conducted a Working Arrangement as a non-participant country (see → above B. IV. 2. c). In Hungary the national prosecution offices (see → "Hypothethical considerations for Art. 27 EPPO" below) investigate fraud cases (e.g. budget fraud cases (see → above "Collection of cases", B. I.).
"jurisdiction"	Cf. sections from the Hungarian Criminal Code.

Source: The authors.

a) Initiation of Investigations

Today Art. 26 EPPO Regulation does not apply in Hungary. If it would be applicable one day, Hungary would need to see that Art. 26 is an **independent provision** from Art. 27. Art. 26 stands on its own and describes a principle of legality at Union level, which has the effect of protecting the Unions's (own) financial interests. This would be a huge benefit for the protection of the EU budget as no national interruption of investigation thorugh a higher prosecution office of the national system could take place. But as Hungary is still a non-participating member and the current political situation indicates no change on this question, Hungary's situation remains scace and *in limbo* if it comes to really independent investigations of the single-office, called EPPO. **2**

3 Therefore instead mainly the national police and the tax offices are competent to investigate (04/2024) in PIF-related cases e.g. budget fraud, subsidy fraud, illegal corruption, customs offences and smuggling detrimental to the financial interests of the Union.

4 The **role of the prosecutor** in Hungary is determined by the Hungarian CPC.

Rules on the prosecutor's office
Section 25[47]
(1) The prosecution is the public prosecutor.
(2) The prosecutor's office investigates, supervises the legality of the investigation, and directs the investigation.
(3) The public prosecutor's office carries out a preparatory procedure and fulfills the tasks specified in this law in the preparatory procedure carried out by another body.
(4) The superior prosecutor's office supervises the exercise of the supervisory and management powers of the prosecutor's office.

Rights of the prosecution
Section 26[48] (1) The prosecution may make motions and comments on all matters decided by the court.

[47] IV. Fejezet
Az ügyészség
Az ügyészség feladata
25. § (1) Az ügyészség a közvádló.
(2) Az ügyészség nyomoz, felügyeli a felderítés törvényességét, valamint irányítja a vizsgálatot.
(3) Az ügyészség előkészítő eljárást végez és a más szerv által végzett előkészítő eljárásban ellátja az e törvényben meghatározott feladatait.
(4) A felettes ügyészség felügyeli az ügyészség felügyeleti és irányítási jogkörének gyakorlását

[48] 26. § Az ügyészség jogai (1) Az ügyészség indítványt és észrevételt tehet minden olyan kérdésben, amelyben a bíróság dönt.
(2) Az ügyészség felügyeleti jogkörében
a) a nyomozást vagy a feljelentés kiegészítését a nyomozó hatóság önálló eljárására utalhatja,
b) a nyomozó hatóság eljárásának törvényességét ellenőrzi,
c) a nyomozó hatóság törvénysértő határozatát megváltoztathatja vagy hatályon kívül helyezheti,
d) megállapíthatja, hogy a nyomozó hatóság az eljárási cselekményt törvénysértően végezte el vagy törvénysértő intézkedést tett,
e) a megállapított törvénysértés orvoslására a nyomozó hatóságot felhívja,
f) az e törvényben meghatározott esetekben eljárási cselekmény elvégzését vagy határozat meghozatalát engedélyezheti,
g) a nyomozó hatóság határozata, valamint a gyanúsítás ellen bejelentett panaszt elbírálja,
h) az eljárás elhúzódása miatt a nyomozó hatósággal szemben előterjesztett kifogást elbírálja,
i) az eljárási cselekményeknél jelen lehet, a nyomozás ügyiratainak bemutatását kérheti.
(3) Az ügyészség irányítási jogkörében
a) megteheti a (2) bekezdésben meghatározott intézkedéseket,
b) a nyomozó hatóságot eljárási cselekmény elvégzésére utasíthatja,
c) eljárási cselekmény elvégzését megtilthatja,
d) a nyomozó hatóság határozatát megváltoztathatja vagy hatályon kívül helyezheti,
e) a nyomozó hatóságot határozat hozatalára utasíthatja,
f) a nyomozó hatóságot az ügyészség határozatainak előkészítésére utasíthatja,
g) eljárási cselekmény elvégzését vagy határozat meghozatalát előzetes jóváhagyáshoz kötheti,
h) a nyomozó hatóságot beszámolásra kötelezheti.
(4) Az ügyészség irányítási és felügyeleti jogkörét, illetve a nyomozó hatóság eljárásának önállóságát nem érinti, ha a nyomozás során egyes eljárási cselekményeket az ügyészség maga végez.

(2) In the supervisory authority of the prosecutor's office
a) may refer the investigation or supplement to the report to the independent procedure of the investigating authority,
b) checks the legality of the investigation authority's procedure,
c) may change or repeal the law-breaking decision of the investigating authority,
d) may establish that the investigative authority performed the procedural act in violation of the law or took an unlawful measure,
e) calls the investigative authority to remedy the established violation of the law,
f) may authorize the performance of a procedural act or the adoption of a decision in the cases specified in this Act,
g) evaluates the decision of the investigative authority and the complaint reported against the suspect,
h) assesses the objection presented to the investigating authority due to the delay of the procedure,
i) may be present at the procedural actions, may request the presentation of the case files of the investigation.
(3) In the management authority of the prosecutor's office
a) may take the measures specified in paragraph (2),
b) may instruct the investigating authority to perform a procedural act,
c) may prohibit the performance of a procedural act,
d) may change or repeal the decision of the investigating authority,
e) may instruct the investigating authority to make a decision,
f) may instruct the investigating authority to prepare the decisions of the prosecutor's office,
g) the performance of a procedural act or the adoption of a decision may be subject to prior approval,
h) may oblige the investigating authority to report.
(4) The prosecutor's office's management and supervisory powers, as well as the independence of the investigative authority's procedure, are not affected if the prosecutor's office itself performs certain procedural acts during the investigation.
(5) The prosecutor's office may involve the investigation in any case.
(6) The prosecutor exercises the rights that pertain to the prosecutor's office where the prosecutor works. The performance of a procedural act can only be prohibited by the superior prosecutor of the prosecuting prosecutor.
(7) *If the law does not provide otherwise, the supervisory authority of the superior prosecutor's office exercises the supervisory powers specified in points b)–f)* and *i)* of

(5) Az ügyészség bármely ügyben magához vonhatja a nyomozást.
(6) Az ügyész azokat a jogokat gyakorolja, amelyek azt az ügyészséget illetik, ahol az ügyész működik. Eljárási cselekmény elvégzését kizárólag az eljáró ügyész felettes ügyésze tilthatja meg.
(7) Ha törvény eltérően nem rendelkezik, a felettes ügyészség felügyeleti jogkörében az ügyészség felügyeleti és irányítási jogkörének gyakorlása tekintetében a (2) bekezdés b)-f) és i) pontjában meghatározott felügyeleti jogköröket gyakorolja.

paragraph (2) with regard to the exercise of the supervisory and management powers of the prosecutor's office.

Chapter V The Investigating Authority

Section 31[49] Responsibility and tasks of the investigating authority

(1) The investigating authority carries out preparatory procedures and investigations in order to detect crimes.

(2) The investigative authority acts independently during the preparatory procedure and investigation, under the supervision of the prosecution during the investigation.

(3) The investigative authority is entitled to perform all procedural acts and make decisions that are not referred to the jurisdiction of the court or the prosecutor's office by law.

(4) If the investigating authority notices that it is necessary to carry out a procedural act or make a decision, the decision of which falls under the jurisdiction of the court or the prosecution, it shall immediately report this to the prosecution.

(5) The investigating authority fulfills the instructions of the prosecutor's office by the deadline.

(6) The head of the investigative authority is responsible for the execution of the prosecutor's instructions.

(7) If the head of the investigative authority can recognize the illegality of the prosecutor's order, he must immediately draw the attention of the head of the prosecution. If the head of the public prosecutor's office nevertheless maintains the instruction, he shall put this in writing at the request of the head of the investigative authority – containing the reasoned position related to the illegality of the public prosecutor's instruction.

(8) The head of the investigative authority may make a submission to the superior prosecutor's office against the prosecutor's order through his superior body. The superior

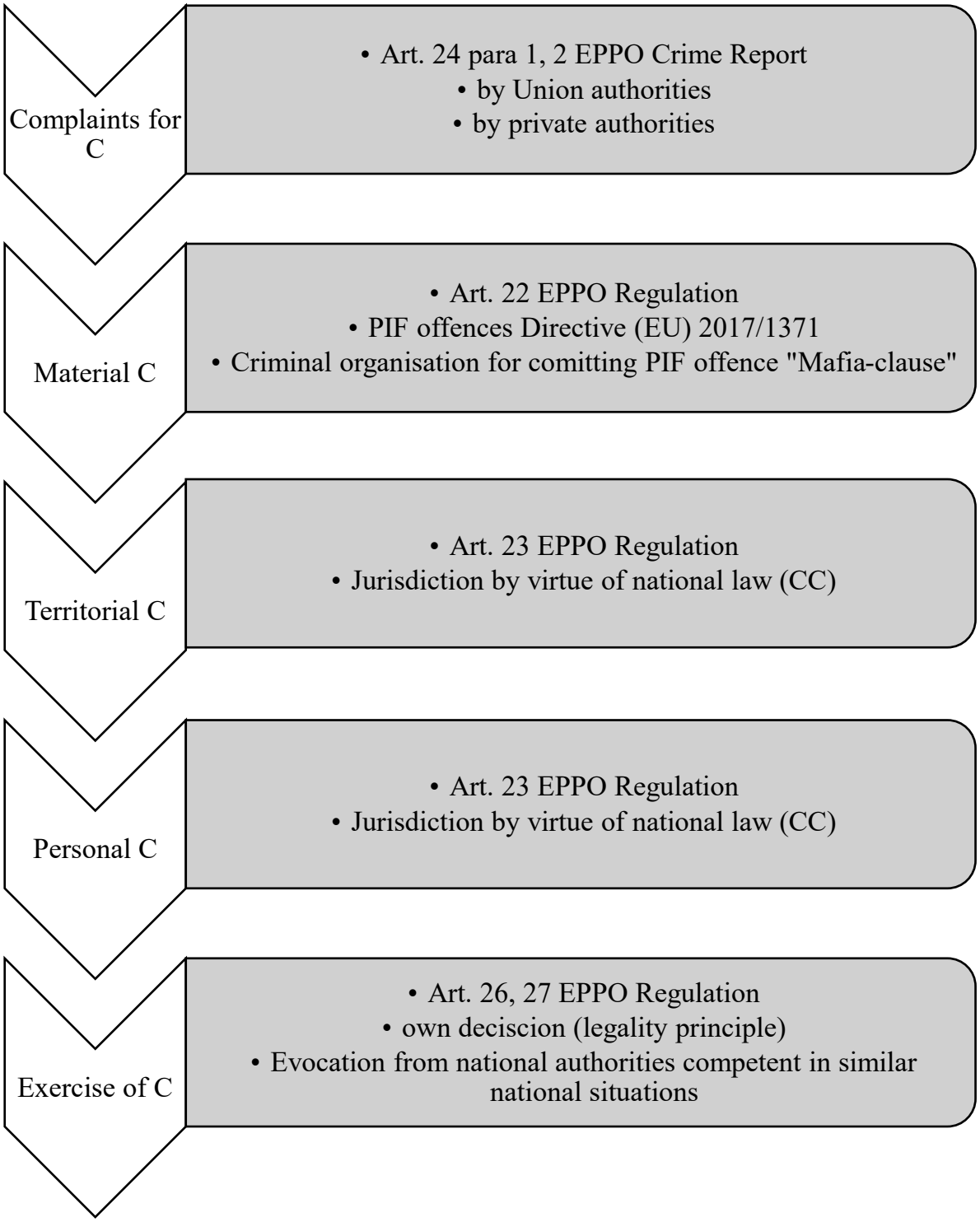
[49] V. Fejezet
A nyomozó hatóság
A nyomozó hatóság feladata
31. § (1) A nyomozó hatóság a bűncselekmények felderítése érdekében előkészítő eljárást és nyomozást végez.
(2) A nyomozó hatóság az előkészítő eljárás és a felderítés során önállóan, a vizsgálat során az ügyészség irányításával jár el.
(3) A nyomozó hatóság jogosult mindazon eljárási cselekmény elvégzésére és határozat meghozatalára, amelyet törvény nem utal a bíróság vagy az ügyészség hatáskörébe.
(4) Ha a nyomozó hatóság észleli, hogy olyan eljárási cselekmény elvégzése, illetve határozat meghozatala szükséges, amelyről a döntés a bíróság, illetve az ügyészség hatáskörébe tartozik, erről az ügyészségnek haladéktalanul beszámol.
(5) A nyomozó hatóság az ügyészség utasításait határidőre teljesíti.
(6) Az ügyészségi utasítások teljesítéséért a nyomozó hatóság vezetője felel.
(7) Ha a nyomozó hatóság vezetője számára az ügyészségi utasítás jogellenessége felismerhető, arra haladéktalanul köteles az ügyészség vezetőjének figyelmét felhívni. Ha az ügyészség vezetője az utasítást ennek ellenére fenntartja, ezt a nyomozó hatóság vezetőjének – az ügyészségi utasítás jogellenességével összefüggő indokolt álláspontját tartalmazó – írásbeli kérésére írásba foglalja.
(8) A nyomozó hatóság vezetője az ügyészségi utasítás ellen felettes szerve útján előterjesztést tehet a felettes ügyészséghez. A felettes szerv az előterjesztést az arra vonatkozó ténybeli és szakmai álláspontjának kifejtésével továbbítja a felettes ügyészséghez. Az előterjesztésnek nincs halasztó hatálya.
(9) A felettes ügyészség az előterjesztés alapján az ügyiratokat megvizsgálja és a vizsgálata eredményéről, jogi álláspontjáról az előterjesztőt az előterjesztés hozzá érkezésétől számított tizenöt napon belül írásban tájékoztatja.

body forwards the proposal to the superior prosecutor's office with an explanation of its factual and professional position. The submission has no suspensory effect.
(9) The superior prosecutor's office examines the case files on the basis of the submission and informs the submitter in writing of the results of its investigation and its legal position within fifteen days of the submission being received.

If the EPPO one day acted on Hungarian ground, the Hungarian EDPs would instead follow the structure displayed below while still being partly Hungarian prosecutor and a special adviser to the EU (the EPPO) as stated in Art. 96 EPPO Regulation: They would act, as has been expressed by many scholars, under a **double-had**. Thus the arguments of today'a partly and mostly some politicans are incorrect, if they make people who are lay people in legal matters think, that Hungary would loose its powers of the (whole) prosecution to the EPPO. This shows a misunderstanding of the mechanism, which France and Germany fought for in 2016. **5**

It only empowers the EPPO for a *very* specific area (the PIF Acquis: fraud, corruption detrimental to the EU's budget, *not!* the Hungarian), which has a *stronger* relevance for the EU *than* for Hungary alone. And the EU, who is the legal recipients of budget funds from EU countries and collectors of duties and taxes to maintain the internal market from which Hungary benefits directly (through companies, sales of goods, workers, etc.) has thus a *strong interest* to ensure the collection of its *own* budget (*not!* the Hungarian). The EDP meachism is a good concept, as EDPs ensure a certain, strong connection with their country of origin, the local (legal) thinking, legal questions and are *de facto* only part-time EU EDPs (if enough cases are discovered they may act or are enforced to act full-time). The first two years of EPPO action show on-top that the EPPO is a success and it would certainly benefit from Hungary changing its decision to work within the structure. **6**

7 *Figure 3: EPPO Exercise of competence in general*



Art. 24 para 1 and 2 concern **EPPO Crime Report**. Complaints can be submitted by both Union authorities and private authorities regarding potential PIF offences.

But would the effect of the reference to national law be in the case that the Hungarian EDPs exist? This chapter explains that the national law for operations of the EPPO already exists within today's possibilities of the national prosecution offices, *which de facto* have the relevant powers and possibilities. It would only need slight **legislative amendments** – especially EDPs would need to be granted powers equal to those of national prosecutors, what is requested by Art. 5, 13 of the EPPO Regulation. The national legislator would need to come up with a proper solution for this part of the law that is eventualy applied by future Hungarian EDPs. **8**

b) Relevant sources of the indications for a criminal offense falling within the competence of the Hungarian prosecution service

aa. How does the Hungarian Prosecution receive PIF Acquis relevant information?

The Hungarian Police and the Hungarian Tax and Customs Office **receive complaints and reports** about fraudulent conduct. They refer information, based on the national laws, such as **9**

- Criminal Code/*Büntető Törvénykönyv*
- Criminal Procedure Act/*2017. évi XC. Törvény a büntetőeljárásról*
- LXVI of 2011 Act on the State Audit Office
- LXXXVI of 2015 Act CXXII of 2010 on the National Tax and Customs Administrations Office./*2015. évi LXXXVI. törvény a Nemzeti Adó- és Vámhivatalról szóló 2010. évi CXXII.*
- XIII of 2016 Act on the implementation of EU customs law

to the prosecution offices.

bb. How would the EPPO receive potentially crime-relevant information?

If the EPPO acted in Hungary, the EPPO and its EDPs would either search for information about fraudulent and corrupt conduct or they would receive information equally as national prosecution services: via reports of the relevant Hungarian anti-fraud bodies, private persons, legal persons, civil servants, national tax and custom etc. The following rationale would apply if Hungary would become part of the EPPO: **10**

> "In order to achieve its goals, the EPPO will need to establish smart information flows between the central office in Luxembourg, delegated prosecutors, and national authorities and, at the same time, avoid causing delays in the information exchange. […] In this regard, some of the existing EU mechanisms concerning *de facto* reporting of PIF crimes seem to be obsolete, as well as national law duties to report such information to a national prosecution office in advance or in parallel to the EPPO."[50]

[50] Klement 2021, pp. 51–52.

11 If the EPPO existed in Hungary, a distinction would have to be made between the direct and the indirect path for the transfer of infromation related to the competence of the EPPO:

Figure 4: National (indirect way of) Obtainting information for the EPPO competence and the exercise of jurisdiction

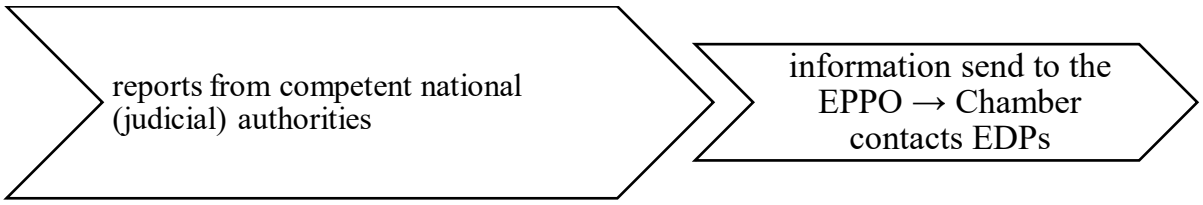
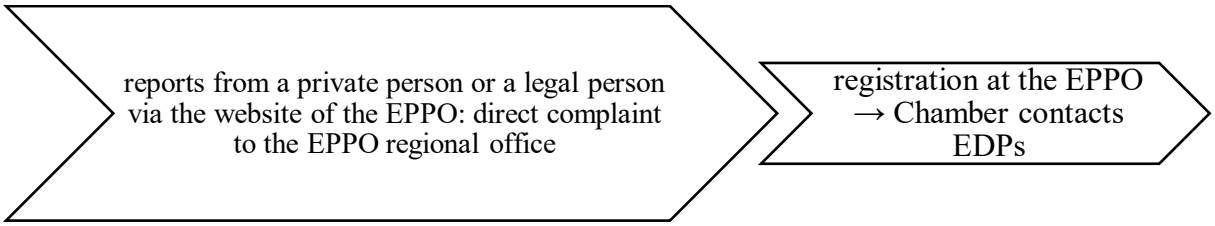


Figure 5: Supranational (direct way of) Obtainting information for the EPPO competence and the exercise of jurisdiction



12 Another, third source of information are the Union bodies, which are obliged to report either to OLAF or to the EPPO (e.g. obliged by Working Agreements) – depending on the seriousness of the suspected conduct: irregularities only or clear foundations for potential criminal offences. National authorities, who report to OLAF need to obey the "Guidelines on how to report irregularities and fraud to the European Commission".

13 OLAF will either way report conduct that falls in the EPPO's competence by virtue of Art. 12c OLAF Reg.

cc. Determination of the competence and verification of Crime Reports

14 The first task of the EDPS in a future Hungarian regional office would be to determine whether the EPPO has competence and jurisdiction or can obtain competence and exercise jurisdiction.

15 These are formal but essential questions. They are for all countries that already participate determined by means of Union secondary legislation and special delegated guidelines required by secondary legislation, the so-called Internal Rules on Prodecure [of the EPPO]. This depends on the criteria of the Regulation (see → Art. 22, 23).

(1) The Union standards, Art. 24 para 6 et seq. EPPO Regulation

16 For the EPPO to be competent, the requirements of the Regulation must be met. Either an examination according to Art. 24 para 6 must show that the EPPO is competent or the delegated prosecutor carries out an examination and assessement by virtue of Art. 26 para 1 EPPO Regultion himself/herself without informing the Permanent Chamber

and initiates an investigation about which he/she subsequently informs the Permanent Chamber.

For the current wording of the IRP rules consult another country chapter (see eg. France above). The requirements of Art. 25 para. 2 and 3 must be observed but he/she can still initiate an investigation "without prejudice to the rules set out in Article 25(2) and (3)". The provisions, jurisdiction (eg territory), thresholds ie euros of the Regulation and orders of the Luxembourg Chamber must exist for the exercise of competence. **17**

Article 22 Material competence of the EPPO
PIF Implementation
National databases and information according to Art. 40 para 3 IRP

Article 23 Territorial and personal competences of the EPPO
The EPPO is competent if :

- the criminal offenses were committed, in whole or in part, on the territory of one or more participating EU Member States;
- the criminal offenses were committed by a national of a participating EU Member State,
- the criminal offenses were committed by a person subject to the Staff Regulations or rules applicable to EU officials.

Section 2 Exercise of the competence of the EPPO
Article 24 Communication, registration and verification of information
The transfer of information to the relevant EDPs or the chamber of the EPPO is mainly regulated by Art. 24 EPPO Regulation. If Hungary joined the EPPO one day it would need to make this information public to all authorities in Hungary by virtue of the EPPO Adoption Act.
Hungarian Government would need to contact and notify the EPPO by virtue of Art. 117 EPPO Regulation.

Under s. 30, the prosecutor's office exclusively investigates specific crimes, which include official bribery and related corruption offenses, particularly those involving officials or foreign officials and crimes against the prosecutor's office in connection with its operations. If a PIF crime involves bribery, corruption, or related offenses falling under these categories, the prosecutor has exclusive jurisdiction. **18**

The prosecutor's office coordinates investigations when multiple authorities are involved; so it can resolve jurisdictional conflicts or designate an investigative authority, including the National Tax and Customs Administrations Office (NTCA), to act in complex cases that overlap multiple jurisdictions. And as PIF crimes often involve financial fraud, corruption, or misuse of EU funds, they may require such coordination. S. 35 empowers the prosecutor to assign or approve the NTCA as the acting investigative **19**

body in cases related to financial or tax-related crimes. Given the frequent connection between PIF crimes and financial matters, this role is crucial. The most important sections are enumerated in the following part:

(2) Competence of the EPPO, Art. 26 para 4

20 If the competence can be shared between two or more EDPs from different countries, the procedure of Art. 26 para 4 (see above) would apply.

(3) How to construct Jurisdiction & Competence of the (European Delegated) Prosecutor in Hungary for PIF offences

21 We can stress again the fact that at the moment Hungary (02/2025) has no EDPs. Instead the police and investigative bodies are competent on their own to investigate fraud offences to the detriment of the EU's budget. The jurisdiction and competence of a national prosecution office is determined by the Fundamental Law and the Hungarian CPC:

[Excerpt Fundamental Law]

The prosecution service

Article 29[51]

(1) The Prosecutor General and the prosecution service shall be independent and shall contribute to the administration of justice by exclusively enforcing the State's demand for punishment as public accuser. The prosecution service shall prosecute criminal offences and take action against other unlawful acts and omissions, as well as contribute to the prevention of unlawful acts.

(2) The Prosecutor General and the prosecution service: a) shall exercise rights in connection with investigations, as provided for by an Act; b) shall represent the prosecution in court proceedings; c) shall supervise the lawfulness of penal enforcement; d) shall, as a guardian of public interest, exercise further functions and powers laid down in the

[51] Az ügyészség
29. cikk
(1) A legfőbb ügyész és az ügyészség független, az igazságszolgáltatás közreműködőjeként mint közvádló az állam büntetőigényének kizárólagos érvényesítője. Az ügyészség üldözi a bűncselekményeket, fellép más jogsértő cselekményekkel és mulasztásokkal szemben, valamint elősegíti a jogellenes cselekmények megelőzését.
(2) A legfőbb ügyész és az ügyészség
a) törvényben meghatározottak szerint jogokat gyakorol a nyomozással összefüggésben;
b) képviseli a közvádat a bírósági eljárásban;
c) felügyeletet gyakorol a büntetés-végrehajtás törvényessége felett;
d) a közérdek védelmezőjeként az Alaptörvény vagy törvény által meghatározott további feladat- és hatásköröket gyakorol.
(3) Az ügyészi szervezetet a legfőbb ügyész vezeti és irányítja, kinevezi az ügyészeket. A legfőbb ügyész kivételével az ügyész szolgálati jogviszonya az általános öregségi nyugdíjkorhatár betöltéséig állhat fenn.
(4) A legfőbb ügyészt az ügyészek közül a köztársasági elnök javaslatára az Országgyűlés választja kilenc évre. A legfőbb ügyész megválasztásához az országgyűlési képviselők kétharmadának szavazata szükséges.
(5) A legfőbb ügyész évente beszámol tevékenységéről az Országgyűlésnek.
(6) Az ügyészek nem lehetnek tagjai pártnak, és nem folytathatnak politikai tevékenységet.
(7) Az ügyészség szervezetének és működésének, a legfőbb ügyész és az ügyészek jogállásának részletes szabályait, valamint javadalmazásukat sarkalatos törvény határozza me

Fundamental Law or in an Act. (3) The organisation of the prosecution service shall be led and directed by the Prosecutor General who shall appoint prosecutors. Except for the Prosecutor General, the service relationship of prosecutors may exist until they reach the general retirement age.
(4) The Prosecutor General shall be elected by the National Assembly from among the prosecutors for nine years at the proposal of the President of the Republic. The Prosecutor General shall be elected with the votes of two thirds of the Members of the National Assembly. (5) The Prosecutor General shall report annually to the National Assembly on his or her activities.
(6) Prosecutors may not be members of political parties or engage in political activities.
(7) The detailed rules for the organisation and operation of the prosecution service and for the legal status of the Prosecutor General and the prosecutors, as well as their remuneration, shall be laid down in a cardinal Act.

[Excerpt CPC]

Section 29[52] **Powers and competences of the prosecutor's office**

(1) The powers and competences of the public prosecutor's office are determined by the powers and competences of the court for which it operates, except in cases specified in legislation or in the normative instructions of the chief prosecutor. The organization of the prosecutor's office is determined by law by the chief prosecutor.
(2) In the case of crimes under the jurisdiction of different prosecutor's offices, the prosecutor's office that previously took preventive measures will act.
(3) On the basis of the order of the chief prosecutor or the superior prosecutor's office, the prosecutor's office may act in a case that is otherwise not covered by its authority or competence.
(4) In the event of a conflict of authority or competence between the prosecutor's offices, the acting prosecutor's office is appointed by the superior prosecutor's office. There is no appeal against the decision.

[52] Az ügyészség hatásköre és illetékessége
29. § (1) Az ügyészség hatáskörét és illetékességét jogszabályban vagy a legfőbb ügyész normatív utasításában meghatározott esetek kivételével annak a bíróságnak a hatásköre és illetékessége határozza meg, amely mellett működik. Az ügyészség szervezetét törvény alapján a legfőbb ügyész határozza meg.
(2) A különböző ügyészségek illetékességébe tartozó bűncselekmények esetén az az ügyészség jár el, amelyik a megelőzés szerint korábban intézkedett.
(3) A legfőbb ügyész vagy a felettes ügyészség rendelkezése alapján az ügyészség olyan ügyben is eljárhat, amelyre a hatásköre vagy az illetékessége egyébként nem terjed ki.
(4) Az ügyészségek között felmerült hatásköri vagy illetékességi összeütközés esetén az eljáró ügyészséget a felettes ügyészség jelöli ki. A határozat ellen nincs helye panasznak.

Section 30[53] **The exclusive prosecution investigation**
Only the prosecutor's office conducts the investigation for the following crimes:
[...]
ec) other crime committed against him in connection with his operation,
f) official bribery, acceptance of official bribery, bribery in court or official proceedings, acceptance of bribes in court or official proceedings, Civil Code. Purchase of influence committed in relation to an official or a foreign official according to § 298, paragraphs (1), (1a) and (3), Civil Code. Dealing with influence in relation to an official or a foreign official according to § 299, paragraphs (1), (2) and (5) and failure to report the crime of corruption.

Section 35[54] **Power and competence of the investigating authority**
(1) The authority and competence of the investigative authorities is determined by law.
(2) In the event of a jurisdictional conflict between the general investigative authority and the National Tax and Customs Administrations Office, as well as if a crime that falls under the jurisdiction of the general investigative authority or the National Tax and Customs Administrations Office is combined with a crime for which this investigative authority does not have the authority to investigate covers, and it is not advisable to separate the procedure, the acting investigative authority is appointed by the acting prosecutor's office. The prosecutor's office can designate the National Tax and Customs Administrations Office as the acting investigative authority even if its authority does not otherwise extend to the investigation of the crime. There is no room for appeal against the decision made regarding the appointment.
(3) Based on the agreement of their leaders, with the approval of the public prosecutor's office, the investigative authorities may conduct the investigation jointly in a case or a specific group of cases.

[53] A kizárólagos ügyészségi nyomozás
30. § Kizárólag az ügyészség végzi a nyomozást a következő bűncselekmények miatt:
ec) működésével kapcsolatban ellene elkövetett más bűncselekmény,
f) a hivatali vesztegetés, a hivatali vesztegetés elfogadása, a vesztegetés bírósági vagy hatósági eljárásban, a vesztegetés elfogadása bírósági vagy hatósági eljárásban, a Btk. 298. § (1), (1a) és (3) bekezdése szerinti hivatalos személy vagy külföldi hivatalos személy vonatkozásában elkövetett befolyás vásárlása, a Btk. 299. § (1), (2) és (5) bekezdése szerinti hivatalos személy vagy külföldi hivatalos személy vonatkozásában elkövetett befolyással üzérkedés és a korrupciós bűncselekmény feljelentésének elmulasztása,
[54] A nyomozó hatóság hatásköre és illetékessége
35. § (1) A nyomozó hatóságok hatáskörét és illetékességét jogszabály határozza meg.
(2) Az általános nyomozó hatóság és a Nemzeti Adó- és Vámhivatal között felmerült hatásköri összeütközés esetén, valamint ha az általános nyomozó hatóság vagy a Nemzeti Adó- és Vámhivatal hatáskörébe tartozó bűncselekménnyel halmazatban olyan bűncselekmény is megvalósult, amelynek nyomozására e nyomozó hatóság hatásköre nem terjed ki, és az eljárás elkülönítése nem célszerű, az eljáró nyomozó hatóságot az eljáró ügyészség jelöli ki. Az ügyészség eljáró nyomozó hatóságként a Nemzeti Adó- és Vámhivatalt akkor is kijelölheti, ha annak hatásköre a bűncselekmény nyomozására egyébként nem terjed ki. A kijelölés tárgyában hozott határozat ellen nincs helye panasznak.
(3) A nyomozó hatóságok a vezetőik megállapodása alapján az ügyészség jóváhagyásával egy ügyben vagy ügyek meghatározott csoportjában közösen is végezhetik a nyomozást.

dd. How to assess and verify the suspicion level according to Art. 26 para 1 and the CPC for a criminal offense falling within the competence of the EPPO

The initial suspicion is only to determine the impetus, so to speak, the ball that gets the criminal proceedings rolling if saying it by using a metaphor. **22**

The way in which the public prosecutor's office learns, for example, of the suspicion of subsidy fraud or an offence detrimental to the Union's financial interests should be regulated within an *EPPO Adoption Act* because these special national lawsw are addressed by Union law and the communication with the national authorities is simpliefied herewith. Hungary's Government may take a look at other Adoption laws. **23**

(1) The PIF offences in Hungary

The national prosecution offices must investigate the PIF offences[55], which if Hungarian EDPs existed, would be investigated by them: **24**

Table 8: Major PIF Offences in Hungary **25**

Fraud & Forgery Offences	Corruption Offences	Tax and Customs Offences
• Section 342 Forgery of public documents • Section 343 Abuse of power by official • Section 372 Embezzlement • Section 373 General Fraud Offence • Section 376 Misappropriation • Section 396 budget fraud CC • In combinating with the rules on aiding & abtetting, attempt and accomplices of the CC].	• Section 290 Active bribery • Section 291Passive bribery • Section 292 Active bribery regarding a public office • Section 293 Passive bribery regarding a public office • Section 300 Failure to report a corruption criminal offence • [In combinating with the rules on aiding & abtetting, attempt and accomplices of the CC].	• Section 397 CC • Section 398 CC • [In combinating with the rules on aiding & abtetting, attempt and accomplices of the CC].

(a) Criminal Code (CC/2012. évi C. törvény Büntető Törvénykönyv)

The next section depicts the main offences from the Criminal Code, which have been summarised in the table above. The full provisions enable us to see the concrete requirements, thresholds, the penalties and ensure that the provisions can be compared with the other countries in the EU. **26**

[55] On the harmonization process see Karsai 2021; Kanyuk 2002a and see as well Kanjuk 2022b. And see very-detailed Farkas and Dannecker 2019, passim.

Chapter XXVII Corruption Related Criminal Offences
Active bribery
Section 290 Bribery[56]

(1) A person who gives or promises any undue advantage to a person pursuing any activity for or in the interest of an economic operator or to any other person on account of such a person, to have him breach his duties is guilty of a felony and shall be punished by imprisonment for up to three years.
(2) The punishment shall be imprisonment for one to five years if the criminal offence specified in paragraph (1) is committed concerning a person pursuing any activity for or in the interest of an economic operator with independent powers to take action.
(3) The punishment shall be imprisonment for a) one to five years in the case specified in paragraph (1), b) two to eight years in the case specified in paragraph (2), if the criminal offence of active bribery is committed in a criminal conspiracy or regularly for generating income.
(4) A person who commits the criminal offence of active bribery concerning a person pursuing any activity for or in the interest of a foreign economic operator shall be punished under paragraphs (1) to (3).
(5) The punishment of the perpetrator of the criminal offence specified in paragraph (1) may be reduced without limitation or, in cases deserving special consideration, may be dispensed with if he notifies the authorities of the criminal offence and reveals the circumstances of its commission before the authority becomes aware of them. This provision shall not apply if the criminal offence is committed in a criminal organisation.
(6) A person who gives or promises any undue advantage, as provided for in the Act on healthcare, to a healthcare worker, a person working in healthcare or any other person on account of such a person relating to the provision of a healthcare service is guilty of

[56] Vesztegetés
290. § (1) Aki gazdálkodó szervezet részére vagy érdekében tevékenységet végző személynek vagy rá tekintettel másnak azért ad vagy ígér jogtalan előnyt, hogy a kötelességét megszegje, bűntett miatt három évig terjedő szabadságvesztéssel büntetendő.
(2) A büntetés egy évtől öt évig terjedő szabadságvesztés, ha az (1) bekezdésben meghatározott bűncselekményt gazdálkodó szervezet részére vagy érdekében tevékenységet végző, önálló intézkedésre jogosult személlyel kapcsolatban követik el.
(3) A büntetés
a) az (1) bekezdés esetében egy évtől öt évig,
b) a (2) bekezdés esetében két évtől nyolc évig
terjedő szabadságvesztés, ha a vesztegetést bűnszövetségben vagy üzletszerűen követik el.
(4) Az (1)-(3) bekezdés szerint büntetendő, aki a vesztegetést külföldi gazdálkodó szervezet részére vagy érdekében tevékenységet végző személlyel kapcsolatban követi el.
(5) A büntetés korlátlanul enyhíthető – különös méltánylást érdemlő esetben mellőzhető – az (1) bekezdésben meghatározott bűncselekmény elkövetőjével szemben, ha a bűncselekményt, mielőtt az a hatóság tudomására jutott volna, a hatóságnak bejelenti, és az elkövetés körülményeit feltárja. Ez a rendelkezés nem alkalmazható, ha a bűncselekményt bűnszervezetben követik el.
(6) Aki egészségügyi szolgáltatás nyújtásával összefüggésben egészségügyi dolgozónak, egészségügyben dolgozónak vagy ezekre tekintettel másnak az egészségügyről szóló törvényben meghatározottak szerint jogtalan előnyt ad vagy ígér, ha súlyosabb bűncselekmény nem valósul meg, vétség miatt egy évig terjedő szabadságvesztéssel büntetendő.

a misdemeanour and shall be punished by imprisonment for up to one year, unless a criminal offence of greater gravity is established.

Passive bribery
Section 291[57]
(1) A person who asks for any undue advantage concerning his activity for or in the interest of an economic operator, or accepts such advantage or a promise of it, or agrees with a person asking for or accepting any undue advantage asked for by, or given or promised to, a third party on his account, is guilty of a felony and shall be punished by imprisonment for up to three years.
(2) The perpetrator shall be punished by imprisonment for a) one to five years if he breaches his duty in exchange for the undue advantage, b) two to eight years if he commits the criminal offence specified in paragraph (1) in a criminal conspiracy or regularly for generating income.
(3) If the perpetrator is a person who pursues an activity for or in the interest of an economic operator with independent powers to take action, the punishment shall be imprisonment for a) one to five years in the case specified in paragraph (1), b) two to eight years in the case specified in paragraph (2) a), c) five to ten years in the case specified in paragraph (2) b).
(4) A person who commits the criminal offence specified in paragraphs (1) to (3) with regard to a person pursuing an activity for or in the interest of a foreign economic operator shall be punished under the respective paragraph.
(5) The punishment of the perpetrator of the criminal offence specified in paragraph (1) or paragraph (3) a) may be reduced without limitation or, in cases deserving special

[57] Vesztegetés elfogadása
291. § (1) Aki gazdálkodó szervezet részére vagy érdekében végzett tevékenységével kapcsolatban jogtalan előnyt kér, avagy a jogtalan előnyt vagy ennek ígéretét elfogadja, illetve a rá tekintettel harmadik személy által kért vagy harmadik személynek adott vagy ígért jogtalan előny kérőjével vagy elfogadójával egyetért, bűntett miatt három évig terjedő szabadságvesztéssel büntetendő.
(2) Ha az elkövető
a) a jogtalan előnyért a kötelességét megszegi, egy évtől öt évig,
b) az (1) bekezdésben meghatározott bűncselekményt bűnszövetségben vagy üzletszerűen követi el, két évtől nyolc évig
terjedő szabadságvesztéssel büntetendő.
(3) Ha az elkövető gazdálkodó szervezet részére vagy érdekében tevékenységet végző, önálló intézkedésre jogosult személy, a büntetés
a) az (1) bekezdésben meghatározott esetben egy évtől öt évig,
b) a (2) bekezdés a) pontjában meghatározott esetben két évtől nyolc évig,
c) a (2) bekezdés b) pontjában meghatározott esetben öt évtől tíz évig
terjedő szabadságvesztés.
(4) Az (1)-(3) bekezdés szerint büntetendő az a külföldi gazdálkodó szervezet részére vagy érdekében tevékenységet végző személy, aki az ott meghatározott bűncselekményt követi el.
(5) A büntetés korlátlanul enyhíthető – különös méltánylást érdemlő esetben mellőzhető – az (1) bekezdésben és a (3) bekezdés a) pontjában meghatározott bűncselekmény elkövetőjével szemben, ha a bűncselekményt, mielőtt az a hatóság tudomására jutott volna, a hatóságnak bejelenti, a kapott jogtalan vagyoni előnyt vagy annak ellenértékét a hatóságnak átadja, és az elkövetés körülményeit feltárja. Ez a rendelkezés nem alkalmazható, ha a bűncselekményt bűnszervezetben követik el.
(6) E alkalmazásában az egészségügyi szolgáltatással összefüggésben jogtalan előnynek minősül az egészségügyről szóló törvényben meghatározottak szerinti jogtalan előny.

consideration, may be dispensed with if he notifies the authorities of the criminal offence, hands over to the authorities any undue material advantage received or the consideration therefor, and reveals the circumstances of its commission before the authority becomes aware of them. This provision shall not apply if the criminal offence is committed in a criminal organisation.
(6) For the purposes of this section, relating to the provision of a healthcare service, undue advantage means undue advantage as provided for in the Act on healthcare.

Failure to report a corruption criminal offence
Section 300[58]
(1) A public officer who, obtaining in his official capacity credible knowledge of the commission of an undiscovered criminal offence of active bribery, passive bribery, active bribery regarding a public officer, passive bribery regarding a public officer, active bribery in court or in authority proceedings, passive bribery in court or in authority proceedings, active trading in influence or passive trading in influence fails to report it to the authorities as soon as he can is guilty of a felony and shall be punished by imprisonment for
up to three years.
(2) A relative of the perpetrator shall not be liable to punishment for failure to report a corruption criminal offence.

Chapter Crimes Against Public Trust
Public document forgery
Section 342[59]
(1) Who
a) prepares a false public document or falsifies the content of a public document,

[58] Korrupciós bűncselekmény feljelentésének elmulasztása
300. § (1) Az a hivatalos személy, aki e minőségében hitelt érdemlő tudomást szerez arról, hogy még le nem leplezett vesztegetést, vesztegetés elfogadását, hivatali vesztegetést, hivatali vesztegetés elfogadását, vesztegetést bírósági vagy hatósági eljárásban, vesztegetés elfogadását bírósági vagy hatósági eljárásban, befolyás vásárlását vagy befolyással üzérkedést követtek el, és erről a hatóságnak, mihelyt teheti, nem tesz feljelentést, bűntett miatt három évig terjedő szabadságvesztéssel büntetendő.
(2) Korrupciós bűncselekmény feljelentésének elmulasztása miatt az elkövető hozzátartozója nem büntethető.
[59] Közokirat-hamisítás
342. § (1) Aki
a) hamis közokiratot készít, vagy közokirat tartalmát meghamisítja,
b) hamis, hamisított vagy más nevére szóló valódi közokiratot felhasznál,
c) közreműködik abban, hogy jog vagy kötelezettség létezésére, megváltozására vagy megszűnésére vonatkozó valótlan adatot, tényt vagy nyilatkozatot foglaljanak közokiratba,
bűntett miatt három évig terjedő szabadságvesztéssel büntetendő.
(1a) Nem valósul meg az (1) bekezdés c) pontja szerinti bűncselekmény a polgárok személyi- és lakcímadatait tartalmazó nyilvántartásba történő lakcímbejelentés vonatkozásában, amennyiben arra a szállásadó hozzájárulásával, vagy saját tulajdonú ingatlanba történő bejelentkezéssel kerül sor.
(2) Aki az (1) bekezdés a) vagy b) pontjában meghatározott közokirat-hamisításra irányuló előkészületet követ el, vétség miatt egy évig terjedő szabadságvesztéssel büntetendő.
(3) Aki az (1) bekezdés c) pontjában meghatározott közokirat-hamisítást gondatlanságból követi el, vétség miatt elzárással büntetendő.

b) uses a false, falsified or genuine public document in someone else's name,
c) contributes to the inclusion in a public document of untrue data, facts or statements regarding the existence, change or termination of a right or obligation,
is punishable by imprisonment for up to three years.
(1a) The crime referred to in point c) of paragraph (1) is not committed in relation to registering the address of citizens in the register containing personal and residential address data, if this is done with the consent of the host or by registering in a property owned by the owner.
(2) Whoever commits preparation for the falsification of a public document as defined in point a) or b) of paragraph (1) shall be punished for a misdemeanour with imprisonment of up to one year.
(3) Anyone who negligently commits the falsification of a public document specified in point c) of paragraph (1) shall be punished by imprisonment as a misdemeanour.

Section 343
(1) An official who abuses his official powers
a) prepares a false public document,
b) falsifies the content of a public document, or
c) falsely includes an essential fact in a public document,
is punishable by imprisonment from one to five years for a crime.
(2) The provisions of this section shall also be properly applied to the member of the foreign state's judicial or law enforcement authority acting in the territory of Hungary based on the law.

Section 372 Embezzlement
(1) Anyone who unlawfully appropriates a foreign object entrusted to him, or possesses it as his own, commits embezzlement.
(2) The punishment for a misdemeanour is imprisonment for up to two years, if
a) embezzlement to a lesser value
b) embezzlement of the value of the violation
ba) in a criminal conspiracy,
bb) at the scene of public danger,
bc) in a business -like manner
are committed.
(3) The punishment for a crime is imprisonment for up to three years, if
a) embezzlement to a higher value,
b) embezzlement committed to a lesser value in one of the ways specified in points ba)-bc) of paragraph (2), or
c) for an object belonging to the scope of cultural property protected against embezzlement, an archaeological find or a movable cultural heritage element granted foreign protection

are committed.
(4) The penalty is imprisonment from one to five years, if
a) embezzlement to a significant value,
b) embezzlement committed for a larger value in any of the ways specified in points ba)-bc) of paragraph (2), or
c) embezzlement to the detriment of a person with limited ability to recognize or prevent the crime due to old age or disability
are committed.
(5) The penalty is imprisonment from two to eight years, if
a) the embezzlement is of particularly high value
b) embezzlement committed to a significant value in one of the ways specified in points ba)–bc) of paragraph (2)
are committed.
(6) The penalty is imprisonment from five to ten years, if
a) the embezzlement is of a particularly significant value
b) embezzlement committed for a particularly large value in one of the ways specified in points ba)–bc) of paragraph (2)
are committed.

27 The Hungarian s. 373 CC and the fraud offence in s. 263 StGB both address fraud but differ in their structure, scope, and focus. Hungarian law criminalizes misleading or defrauding others to gain unlawful profit, focusing on general damage (*kár*), which includes unpaid services, while German law targets the inducement or maintenance of an error to secure financial benefit, strictly defining harm as financial damage (*Vermögensschaden*).

28 The graduation of punishment in Hungarian law is based on monetary thresholds (e.g., minor, significant, or particularly great damage) and specific aggravating factors, such as charity fraud or targeting vulnerable individuals. German law, in contrast, employs qualitative assessments, with higher penalties for large-scale fraud, economic hardship, or misuse of authority.[60] Both systems allow for sentences of up to 10 years for the most serious cases.

29 While attempts are explicitly criminalized under German law, they are not directly addressed in s. 373 CC. Additionally, fines are a potential penalty under German law in basic cases but are not mentioned in the Hungarian provision. These differences reflect Hungary's focus on contextual elements and defined damage thresholds, whereas Germany prioritizes scale, systemic impact, and the integrity of public trust.

[60] See → German volume.

Section 373[61] **Fraud**

(1) Anyone who misleads or defrauds others in order to obtain an unlawful profit, and thereby causes damage, commits fraud.

(2) The punishment for a misdemeanour is imprisonment for up to two years, if

a) the fraud causes minor damage, or

b) fraud causing damage that does not exceed the value limit of the violation

ba) in a criminal conspiracy,

bb) at the scene of public danger,

bc) business-wise,

bd) pretending to be fundraising for charity

are committed.

(3) The punishment for a crime is imprisonment for up to three years, if

a) the fraud causes greater damage, or

b) the fraud causing minor damage is committed in one of the ways specified in points ba)–bc) of paragraph (2).

(4) The penalty is imprisonment from one to five years, if

a) the fraud causes significant damage,

b) the fraud causing greater damage is committed in one of the ways specified in points ba)–bc) of paragraph (2), or

c) the fraud is committed to the detriment of a person who has limited ability to recognize or prevent the crime due to old age or disability.

(5) The penalty is imprisonment from two to eight years, if

[61] Csalás 373. § (1) Aki jogtalan haszonszerzés végett mást tévedésbe ejt, vagy tévedésben tart, és ezzel kárt okoz, csalást követ el.
(2) A büntetés vétség miatt két évig terjedő szabadságvesztés, ha
a) a csalás kisebb kárt okoz, vagy
b) a szabálysértési értékhatárt meg nem haladó kárt okozó csalást
ba) bűnszövetségben,
bb) közveszély színhelyén,
bc) üzletszerűen,
bd) jótékony célú adománygyűjtést színlelve
követik el.
(3) A büntetés bűntett miatt három évig terjedő szabadságvesztés, ha
a) a csalás nagyobb kárt okoz, vagy
b) a kisebb kárt okozó csalást a (2) bekezdés ba)-bc) pontjában meghatározott valamely módon követik el.
(4) A büntetés egy évtől öt évig terjedő szabadságvesztés, ha
a) a csalás jelentős kárt okoz,
b) a nagyobb kárt okozó csalást a (2) bekezdés ba)-bc) pontjában meghatározott valamely módon követik el, vagy
c) a csalást a bűncselekmény felismerésére vagy elhárítására idős koránál vagy fogyatékosságánál fogva korlátozottan képes személy sérelmére követik el.
(5) A büntetés két évtől nyolc évig terjedő szabadságvesztés, ha
a) a csalás különösen nagy kárt okoz, vagy
b) a jelentős kárt okozó csalást a (2) bekezdés ba)-bc) pontjában meghatározott valamely módon követik el.
(6) A büntetés öt évtől tíz évig terjedő szabadságvesztés, ha
a) a csalás különösen jelentős kárt okoz, vagy
b) a különösen nagy kárt okozó csalást a (2) bekezdés ba)-bc) pontjában meg határozott valamely módon követi kel.
(7) E § alkalmazása szempontjából kárnak kell tekinteni az igénybe vett szolgáltatás meg nem fizetett ellenértékét is.

a) the fraud causes particularly great damage, or
b) the fraud causing significant damage is committed in one of the ways specified in points ba)–bc) of paragraph (2).
(6) The penalty is imprisonment from five to ten years, if
a) the fraud causes particularly significant damage, or
b) the fraud causing particularly great damage is committed in one of the ways specified in points ba)–bc) of paragraph (2).
(7) From the point of view of the application of this section, the unpaid consideration for the service used shall also be considered damage.

Section 375[62] Fraud committed using an information system
(1) Whoever enters data into an information system for the purpose of unlawful profit-making, changes, deletes, or renders the data managed therein inaccessible, or by carrying out other operations influences the operation of the information system and thus causes damage, shall be punished for a felony with imprisonment of up to three years.
(2) The penalty is imprisonment from one to five years, if
a) fraud committed using the information system causes significant damage, or
b) fraud committed using the information system causing greater damage is committed in a criminal association or as a business.
(3) The penalty is imprisonment from two to eight years, if
a) fraud committed using the information system causes particularly great damage, or
b) fraud committed by using the information system causing significant damage is committed in a criminal association or as a business.
(4) The punishment is imprisonment from five to ten years, if
a) fraud committed using the information system causes particularly significant damage, or

[62] Információs rendszer felhasználásával elkövetett csalás
375. § (1) Aki jogtalan haszonszerzés végett információs rendszerbe adatot bevisz, az abban kezelt adatot megváltoztatja, törli, vagy hozzáférhetetlenné teszi, illetve egyéb művelet végzésével az információs rendszer működését befolyásolja, és ezzel kárt okoz, bűntett miatt három évig terjedő szabadságvesztéssel büntetendő.
(2) A büntetés egy évtől öt évig terjedő szabadságvesztés, ha
a) az információs rendszer felhasználásával elkövetett csalás jelentős kárt okoz, vagy
b) a nagyobb kárt okozó információs rendszer felhasználásával elkövetett csalást bűnszövetségben vagy üzletszerűen követik el.
(3) A büntetés két évtől nyolc évig terjedő szabadságvesztés, ha
a) az információs rendszer felhasználásával elkövetett csalás különösen nagy kárt okoz, vagy
b) a jelentős kárt okozó információs rendszer felhasználásával elkövetett csalást bűnszövetségben vagy üzletszerűen követik el.
(4) A büntetés öt évtől tíz évig terjedő szabadságvesztés, ha
a) az információs rendszer felhasználásával elkövetett csalás különösen jelentős kárt okoz, vagy
b) a különösen nagy kárt okozó információs rendszer felhasználásával elkövetett csalást bűnszövetségben vagy üzletszerűen követik el.
(5) Az (1)-(4) bekezdés szerint büntetendő, aki hamis, hamisított vagy jogosulatlanul megszerzett elektronikus készpénz-helyettesítő fizetési eszköz felhasználásával vagy az ilyen eszközzel történő fizetés elfogadásával okoz kárt.
(6) Az (5) bekezdés alkalmazásában a külföldön kibocsátott elektronikus készpénz-helyettesítő fizetési eszköz a belföldön kibocsátott készpénz-helyettesítő fizetési eszközzel azonos védelemben részesül.

b) the fraud committed using the information system causing particularly great damage is committed in a criminal association or in a business-like manner.
(5) According to paragraphs (1)-(4), whoever causes damage by using a false, forged or illegally obtained electronic cash substitute payment instrument or by accepting payment with such an instrument shall be punished.
(6) In the application of paragraph (5), the electronic cash substitute payment instrument issued abroad receives the same protection as the cash substitute payment instrument issued domestically.

Section 376[63] **Misappropriation**
(1) Whoever has been entrusted with the management of another's property, and by breaching his duties resulting from this, causes a financial disadvantage, commits mismanagement.
(2) The punishment for a misdemeanour is imprisonment for up to two years, if
a) the misappropriation causes a minor financial disadvantage, or
b) misappropriation causing pecuniary loss that does not exceed the value limit of the violation is committed by a guardian or custodian in this capacity.
(3) The punishment for a crime is imprisonment for up to three years, if
a) the misappropriation causes greater financial disadvantage, or
b) the misappropriation causing minor financial loss is committed by a guardian or custodian in this capacity.
(4) The penalty is imprisonment from one to five years, if
a) the misappropriation causes a significant financial disadvantage, or
b) the misappropriation causing major financial loss is committed in this capacity of a guardian or guardian.
(5) The penalty is imprisonment from two to eight years, if
a) the misappropriation causes a particularly large financial disadvantage, or

[63] Hűtlen kezelés
376. § (1) Akit idegen vagyon kezelésével bíztak meg, és ebből folyó kötelességének megszegésével vagyoni hátrányt okoz, hűtlen kezelést követ el.
(2) A büntetés vétség miatt két évig terjedő szabadságvesztés, ha
a) a hűtlen kezelés kisebb vagyoni hátrányt okoz, vagy
b) a szabálysértési értékhatárt meg nem haladó vagyoni hátrányt okozó hűtlen kezelést gyám vagy gondnok e minőségében követi el.
(3) A büntetés bűntett miatt három évig terjedő szabadságvesztés, ha
a) a hűtlen kezelés nagyobb vagyoni hátrányt okoz, vagy
b) a kisebb vagyoni hátrányt okozó hűtlen kezelést gyám vagy gondnok e minőségében követi el.
(4) A büntetés egy évtől öt évig terjedő szabadságvesztés, ha
a) a hűtlen kezelés jelentős vagyoni hátrányt okoz, vagy
b) a nagyobb vagyoni hátrányt okozó hűtlen kezelést gyám vagy gondnok e minőségében követi el.
(5) A büntetés két évtől nyolc évig terjedő szabadságvesztés, ha
a) a hűtlen kezelés különösen nagy vagyoni hátrányt okoz, vagy
b) a jelentős vagyoni hátrányt okozó hűtlen kezelést gyám vagy gondnok e minőségében e minőségében követi el.
(6) A büntetés öt évtől tíz évig terjedő szabadságvesztés, ha
a) a hűtlen kezelés különösen jelentős vagyoni hátrányt okoz, vagy
b) a különösen nagy vagyoni hátrányt okozó hűtlen kezelést gyám vagy gondnok e minőségében követi el.

b) the misappropriation causing significant financial loss is committed by a guardian or guardian in this capacity.
(6) The penalty is imprisonment from five to ten years, if
a) the misappropriation causes a particularly significant financial disadvantage, or
b) the misappropriation causing a particularly large financial disadvantage is committed in this capacity by a guardian or custodian.

30 The most important section is s. 396 of the Hungarian Criminal Code, which is applicable for investigating and filing indictments for EU fraud because it explicitly encompasses offenses that **cause financial harm** to the budget of the EU or budgets managed on its behalf.[64] Para 9a defines "budget" to include the EU's budget, as well as funds managed by or on behalf of the EU hereby ensuring that financial offenses targeting EU funds fall under the scope of Hungarian criminal law.

31 Paras 1 and 7 criminalize a wide **range of fraudulent activities**, including: misleading, defrauding, or making false statements regarding obligations to pay into the budget as well as misusing funds from the budget or failing to fulfil required accounting or reporting obligations.

32 *De facto* these provisions align closely with the types of **misconduct targeted under Article 3 para 2 of the PIF Directive**. Para 6 addresses related criminal activities like illicit trade in excise goods, which can also harm the EU budget (e.g., through evasion of customs duties or taxes). Mitigating and aggravating circumstances are included in para 8. This section is tailored to tackle international or EU fraud and provides a legal basis for prosecuting offenses like fraudulent use of EU subsidies, VAT carousel fraud, and misuse of agricultural funds managed by the EU.

[64] Turksen et al. 2023, p. 75 : "Hungary has a unique position here, as it does not have specific tax offences, but only the general offence of 'budget fraud'. The UK also stands out in this area by regulating its criminal offences not collectively but in several parliamentary acts and through common law. National legal systems name and define tax crimes differently."; p. 79: "The majority of Member States do not independently address VAT fraud but criminalize fraud in relation to all kinds of taxes (France and Hungary, for example, regulate fraud completely independently of taxes in general)".

Section 396[65] Budget fraud **33**

(1) Who a) misleads others, defrauds others, makes statements with untrue content, or conceals the real facts regarding obligations to pay into the budget or funds from the budget,
b) unlawfully uses a discount related to the obligation to pay into the budget, or
c) uses funds from the budget differently from the approved purpose,
and thereby causes financial disadvantage to one or more budgets, is punishable by up to three years' imprisonment for a crime.
(2) […]
(3) The penalty is imprisonment from one to five years, if
a) budget fraud causes significant financial disadvantage, or
b)the budget fraud defined in paragraph (1) is committed in a criminal association or as a business.
(4) The penalty is imprisonment from two to eight years, if
a) the budget fraud causes a particularly large financial disadvantage, or

[65] Költségvetési csalás
396. § (1) Aki
a) költségvetésbe történő befizetési kötelezettség vagy költségvetésből származó pénzeszközök vonatkozásában mást tévedésbe ejt, tévedésben tart, valótlan tartalmú nyilatkozatot tesz, vagy a valós tényt elhallgatja,
b) költségvetésbe történő befizetési kötelezettséggel kapcsolatos kedvezményt jogtalanul vesz igénybe, vagy
c) költségvetésből származó pénzeszközöket a jóváhagyott céltól eltérően használ fel,
és ezzel egy vagy több költségvetésnek vagyoni hátrányt okoz, bűntett miatt három évig terjedő szabadságvesztéssel büntetendő.
(2) […]
(3) A büntetés egy évtől öt évig terjedő szabadságvesztés, ha
a) a költségvetési csalás jelentős vagyoni hátrányt okoz, vagy
b) az (1) bekezdésben meghatározott költségvetési csalást bűnszövetségben vagy üzletszerűen követik el.
(4) A büntetés két évtől nyolc évig terjedő szabadságvesztés, ha
a) a költségvetési csalás különösen nagy vagyoni hátrányt okoz, vagy
b) a jelentős vagyoni hátrányt okozó költségvetési csalást bűnszövetségben vagy üzletszerűen követik el.
(5) A büntetés öt évtől tíz évig terjedő szabadságvesztés, ha
a) a költségvetési csalás különösen jelentős vagyoni hátrányt okoz, vagy
b) a különösen nagy vagyoni hátrányt okozó költségvetési csalást bűnszövetségben vagy üzletszerűen követik el.
(6) Az (1)-(5) bekezdés szerint büntetendő, aki a jövedéki adóról szóló törvényben, valamint a felhatalmazásán alapuló jogszabályban megállapított feltétel hiányában vagy hatósági engedély nélkül jövedéki terméket előállít, megszerez, tart, forgalomba hoz, vagy azzal kereskedik, és ezzel a költségvetésnek vagyoni hátrányt okoz.
(7) Aki költségvetésből származó pénzeszközökkel kapcsolatban előírt elszámolási, számadási, vagy az előírt tájékoztatási kötelezettségének nem vagy hiányosan tesz eleget, valótlan tartalmú nyilatkozatot tesz, vagy valótlan tartalmú, hamis vagy hamisított okiratot használ fel, bűntett miatt három évig terjedő szabadságvesztéssel büntetendő.
(8) Korlátlanul enyhíthető annak a büntetése, aki az (1)-(6) bekezdésben meghatározott költségvetési csalással okozott vagyoni hátrányt a vádemelés előtt megtéríti. Ez a rendelkezés nem alkalmazható, ha a bűncselekményt bűnszövetségben, bűnszervezetben vagy különös visszaesőként követik el.
(9) E § alkalmazásában
a) költségvetésen az államháztartás alrendszereinek költségvetését – ideértve a társadalombiztosítás pénzügyi alapjainak költségvetését és az elkülönített állami pénzalapokat -, a nemzetközi szervezet által vagy nevében kezelt költségvetést, valamint az Európai Unió által vagy nevében kezelt költségvetést, pénzalapokat kell érteni. Költségvetésből származó pénzeszköz vonatkozásában elkövetett bűncselekmény tekintetében a felsoroltakon kívül költségvetésen a külföldi állam által vagy nevében kezelt költségvetést, pénzalapokat is érteni kell;
b) vagyoni hátrány alatt érteni kell a költségvetésbe történő befizetési kötelezettség nem teljesítése miatt bekövetkezett bevételkiesést, valamint a költségvetésből jogosulatlanul igénybe vett vagy céltól eltérően felhasznált pénzeszközt is;
c) a különös visszaesés szempontjából hasonló jellegű bűncselekmény a költségvetést károsító bűncselekmény.

b) the budget fraud causing a significant financial disadvantage is committed in a criminal association or as a business.
(5) The penalty is imprisonment from five to ten years, if
a) the budget fraud causes a particularly significant financial disadvantage, or
b) the budget fraud causing a particularly large financial disadvantage is committed in a criminal association or as a business.
(6) Pursuant to paragraphs (1)–(5), whoever manufactures, acquires, keeps, places on the market, or trades in an excise product in the absence of a condition established in the Act on Excise Tax and in the legislation delegated to him or without an official permit, shall be punished, and thereby causes a financial disadvantage to the budget.
(7) Anyone who does not or incompletely fulfils the required accounting, accounting or information obligations regarding funds from the budget, makes a statement with untrue content, or uses a document with untrue content, false or falsified document, shall be punished for a felony with imprisonment of up to three years.
(8) The punishment of the person who compensates the financial loss caused by the budget fraud defined in paragraphs (1)–(6) before the charges are brought can be reduced to an unlimited extent. This provision does not apply if the crime is committed in a criminal association, criminal organization or as a special recidivist.
(9) In the application of this section
a) the budget shall mean the budget of the subsystems of the public finances – including the budget of the financial foundations of social security and the separate state funds –, the budget managed by or on behalf of the international organization, and the budget managed by or on behalf of the European Union, funds. With regard to a crime committed in relation to funds from the budget, in addition to those listed, the budget must also be understood as the budget and funds managed by or on behalf of the foreign state;
b) pecuniary disadvantage should be understood as the loss of income due to non-fulfilment of the obligation to pay into the budget, as well as the funds used from the budget without authorization or used for a different purpose;
c) from the point of view of the special decline, a crime of a similar nature is the crime that harms the budget.

Section 397[66] **Failure to supervise or control obligations related to budget fraud**
The head, member or employee of an economic organization entitled to control or supervision, if he fails to fulfil the supervision or control obligation and thereby enables the budget fraud to be committed by a member or employee of the economic organization within the scope of the economic organization's activities, due to a crime is punishable by imprisonment for up to three years.

[66] A költségvetési csaláshoz kapcsolódó felügyeleti vagy ellenőrzési kötelezettség elmulasztása
397. § A gazdálkodó szervezet vezetője, ellenőrzésre vagy felügyeletre feljogosított tagja vagy dolgozója, ha a felügyeleti vagy az ellenőrzési kötelezettség teljesítését elmulasztja, és ezáltal lehetővé teszi, hogy a költségvetési csalást a gazdálkodó szervezet tagja vagy dolgozója a gazdálkodó szervezet tevékenysége körében elkövesse, bűntett miatt három évig terjedő szabadságvesztéssel büntetendő.

Section 398[67] Facilitating the misuse of income

(1) Who

a) produces, acquires, keeps, puts on the market without a license or in violation of the law, equipment, devices, means or raw materials suitable for the production of excise goods, as specified in the Act on Excise Tax, as well as in the legislation based on its authority, or

b) produces, obtains or holds the seal required for circulation without a permit or in violation of the law,

is punishable by imprisonment for up to two years for misdemeanours.

(2) The punishment for a crime is imprisonment for up to three years, if the crime

a) business-wise,

b) for a significant amount of raw materials or stamps,

c) for a tax stamp with a significant or higher value

are committed.

(3) From the point of view of the application of point b) of paragraph (2).

a) the raw material is a significant amount if

aa) 20,000 liters in the case of an untaxed mineral oil product that can be used as motor gasoline or diesel oil, as a motor gasoline or diesel oil additive, or as a diluent,

ab) 45,000 kilograms in the case of liquid hydrocarbons without a tax rate,

ac) 100,000 m3 in the case of gaseous hydrocarbons without a tax rate,

ad) in the case of sugar mash, 10,000 liters,

ae) 25,000 liters in the case of mash made from agricultural products containing sugar or starch,

af) 5 kilograms in the case of dried tobacco, fermented tobacco or cut tobacco,

b) the ticket is a significant quantity, if it is 5,000 pieces exceeds.

[67] 398. § (1) Aki

a) jövedéki termék előállítására alkalmas, a jövedéki adóról szóló törvényben, valamint a felhatalmazásán alapuló jogszabályban meghatározott berendezést, készüléket, eszközt vagy alapanyagot engedély nélkül vagy a jogszabály megszegésével előállít, megszerez, tart, forgalomba hoz, illetve

b) a forgalomba hozatalhoz szükséges zárjegyet engedély nélkül vagy jogszabály megszegésével előállít, megszerez vagy tart,

vétség miatt két évig terjedő szabadságvesztéssel büntetendő

(2) A büntetés bűntett miatt három évig terjedő szabadságvesztés, ha a bűncselekményt

a) üzletszerűen,

b) jelentős mennyiségű alapanyagra vagy zárjegyre,

c) jelentős vagy azt meghaladó értékű adójegyre

követik el.

(3) A (2) bekezdés b) pontja alkalmazása szempontjából

a) az alapanyag jelentős mennyiségű, ha

aa) motorbenzinként vagy gázolajként, motorbenzin- vagy gázolaj-adalékként, illetve hígítóanyagként felhasználható adómérték nélküli ásványolajtermék esetén a 20 000 litert,

ab) adómérték nélküli cseppfolyós szénhidrogén esetén a 45 000 kilogrammot,

ac) adómérték nélküli gáz-halmazállapotú szénhidrogén esetén a 100 000 nm3-t,

ad) cukorcefre esetén a 10 000 litert,

ae) cukor- vagy keményítőtartalmú mezőgazdasági eredetű termékből készült cefre esetén a 25 000 litert,

af) szárított dohány, fermentált dohány vagy vágott dohány esetén az 5 kilogrammot,

b) a zárjegy jelentős mennyiségű, ha az 5000 darabot

meghaladja.

(b) Customs and AML offences

34 The customs and AML offences are partly enshrined in the criminal code and partly in the customs code (2017. évi CLII. *Törvény az uniós vámjog végrehajtásáról*):

> **Section 399**[68] **Money laundering** (1) Anyone who conceals or conceals the origin of the property resulting from a punishable act, the right to the property, the location of the property, or any change in these, commits money laundering.

[68] Pénzmosás
399. § (1) Aki a büntetendő cselekményből származó vagyon eredetét, a vagyonon fennálló jogot, a vagyon helyét, ezek változását elfedi vagy elleplezi, pénzmosást követ el.
(2) Pénzmosást követ el az is, aki a büntetendő cselekményből származó vagyon eredetének, a vagyonon fennálló jognak, a vagyon helyének, ezek változásának elfedése vagy elleplezése céljából a vagyont mástól átveszi, elrejti, átalakítja, átruházza, elidegenítésében közreműködik, felhasználja, azzal összefüggésben pénzügyi tevékenységet végez, pénzügyi szolgáltatást vesz igénybe, vagy arról rendelkezik.
(3) Pénzmosást követ el az is, aki a büntetendő cselekményből származó vagyon mástól való átvételével, elrejtésével, átalakításával, átruházásával, elidegenítésében való közreműködéssel, felhasználásával, az azzal összefüggésben végzett pénzügyi tevékenységgel, pénzügyi szolgáltatás igénybevételével, vagy az arról való rendelkezéssel
a) közreműködik a mással szembeni vagyonelkobzás, illetve vagyonvisszaszerzés meghiúsításában, vagy
b) a mással szembeni vagyonelkobzás, illetve vagyonvisszaszerzés meghiúsítására törekszik.
(4) Pénzmosást követ el az is, aki a más által elkövetett büntetendő cselekményből származó vagyont
a) megszerzi, felette rendelkezési jogosultságot szerez, vagy
b) megőrzi, elrejti, kezeli, használja, felhasználja, átalakítja, átruházza, elidegenítésében közreműködik.
(5) A büntetés bűntett miatt öt évig terjedő szabadságvesztés, ha a pénzmosást jelentős értéket meg nem haladó értékre követik el.
(6) A büntetés két évtől nyolc évig terjedő szabadságvesztés, ha a pénzmosást
a) különösen nagy értékre, vagy
b) jelentős értékre
ba) üzletszerűen,
bb) a pénzmosás és a terrorizmus finanszírozása megelőzéséről és megakadályozásáról szóló törvényben meghatározott szolgáltatóként, annak tisztségviselőjeként vagy alkalmazottjaként a szolgáltató tevékenységével összefüggésben, vagy
bc) hivatalos személyként
követik el.
(7) A büntetés öt évtől tíz évig terjedő szabadságvesztés, ha a pénzmosást
a) különösen jelentős értékre, vagy
b) különösen nagy értékre
ba) üzletszerűen,
bb) a pénzmosás és a terrorizmus finanszírozása megelőzéséről és megakadályozásáról szóló törvényben meghatározott szolgáltatóként, annak tisztségviselőjeként vagy alkalmazottjaként a szolgáltató tevékenységével összefüggésben, vagy
bc) hivatalos személyként
követik el.
(8) Aki pénzmosásra irányuló előkészületet követ el, vétség miatt egy évig terjedő szabadságvesztéssel büntetendő.
(9) Nem büntethető a felbujtó vagy a bűnsegéd, ha a (3) vagy a (4) bekezdésben meghatározott bűncselekményt az általa elkövetetett büntetendő cselekményből származó vagyonra követi el.
400. § (1) Aki a más által elkövetett büntetendő cselekményből származó vagyont elrejti, átalakítja, átruházza, elidegenítésében közreműködik, felhasználja, azzal összefüggésben pénzügyi tevékenységet végez, pénzügyi szolgáltatást vesz igénybe vagy arról rendelkezik, és gondatlanságból nem tud a vagyon eredetéről, vétség miatt két évig terjedő szabadságvesztéssel büntetendő.
(2) A büntetés vétség miatt három évig terjedő szabadságvesztés, ha az (1) bekezdésben meghatározott bűncselekményt
a) különösen nagy vagy azt meghaladó értékre,
b) a pénzmosás és a terrorizmus finanszírozása megelőzéséről és megakadályozásáról szóló törvényben meghatározott szolgáltatóként, annak tisztségviselőjeként vagy alkalmazottjaként a szolgáltató tevékenységével összefüggésben, vagy

(2) Money laundering is also committed by anyone who takes over, hides, transforms, transfers, participates in the alienation of assets from another, hides them, transforms them, transfers them, participates in their alienation, uses them, in connection carries out financial activities, uses financial services or has financial services.
(3) Money laundering is also committed by the person who receives, hides, transforms, transfers, contributes to the alienation of assets from others, uses them, performs related financial activities, uses financial services, or disposes of them
a) contributes to the failure of asset confiscation or asset recovery against another, or
b) seeks to thwart asset confiscation or asset recovery against another.
(4) Money laundering is also committed by those who use property resulting from a punishable act committed by another
a) acquires, obtains disposal rights over it, or
b) preserves, hides, manages, uses, utilizes, transforms, transfers, participates in its alienation.
(5) The punishment for a felony is imprisonment for up to five years, if the money laundering is committed for a value not exceeding a significant amount.
(6) The penalty is imprisonment from two to eight years, if money laundering
a) for a particularly large value, or
b) to a significant value

Nota bene: § 459 para 6 contains legal defintions of both terms in § 399 para 6. *These terms help the reader of the law to understand the threshold for the special sanctions in the case of § 399 para 6 CC:*
(6) In the application of this Act, value, damage, and pecuniary disadvantage
a) smaller between fifty thousand one and five hundred thousand forints,
b) between five hundred thousand one and five million forints greater,
c) significant between HUF five million and one and fifty million,
d) between fifty million one and five hundred million forints is particularly large,
e) is particularly significant above five hundred million forints.
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ba) business-wise,
bb) as a service provider defined in the Act on the Prevention and Suppression of Money Laundering and the Financing of Terrorism, as its official or employee in connection with the service provider's activities, or
bc) as an official
are committed.
(7) The penalty is imprisonment from five to ten years, if money laundering

c) hivatalos személyként
követik el.
(3) Nem büntethető az (1) és (2) bekezdésben meghatározott pénzmosás miatt, aki a hatóságnál önként feljelentést tesz, és az elkövetés körülményeit feltárja, feltéve, hogy a bűncselekményt még nem vagy csak részben fedezték fel.

a) for a particularly significant value, or
b) for a particularly high value
ba) business-wise,
bb) as a service provider defined in the Act on the Prevention and Suppression of Money Laundering and the Financing of Terrorism, as its official or employee in connection with the service provider's activities, or
bc) as an official
are committed.
(8) Anyone who commits preparation for money laundering shall be punished for a misdemeanour with imprisonment of up to one year.
(9) The instigator or accessory to the crime may not be punished if he commits the crime specified in subsections (3) or (4) on the property derived from the punishable act committed by him.

Section 400
(1) Whoever hides, transforms, transfers, participates in the alienation of assets resulting from a punishable act committed by another person, uses them, carries out financial activities in connection with them, uses or disposes of financial services, and is negligently ignorant of the origin of the assets, is a misdemeanour is punishable by imprisonment for up to two years.
(2) The punishment for a misdemeanour is imprisonment of up to three years, if the crime specified in paragraph (1) is committed
a) for a particularly large or exceeding value,
b) as a service provider defined in the Act on the Prevention and Suppression of Money Laundering and the Financing of Terrorism, as its official or employee in connection with the service provider's activities, or
c) as an official
are committed.
(3) A person who voluntarily reports to the authorities and discloses the circumstances of the crime cannot be punished for the money laundering specified in paragraphs (1) and (2), provided that the crime has not yet been discovered or has only been partially discovered.

Failure to report money laundering Section 401 Anyone who fails to comply with the statutory notification obligation related to the prevention and prevention of money laundering and the financing of terrorism shall be punished for a misdemeanour with imprisonment of up to two years.

35 Customs fraud may be tackled via the general fraud offence (see above → Art. 373 CC).

(2) Methods of investigation, Collecting information and documenting the initiation of an investigation for an indictement

Section 339 **36**

(1) The criminal procedure begins with a preparatory procedure in the case of the conditions specified in this Part.
(2) Preparatory proceedings may be conducted by the prosecutor's office or investigative authority with the authority to conduct criminal proceedings.
(3) Based on the Act on the Police, the police's internal crime prevention and crime detection body and the police's anti-terrorism body may also conduct preparatory proceedings for an act falling within its jurisdiction.
(4) The preparatory procedure
a) termination of the preparatory procedure or
b) ordering the investigation
finishes.

Section 340

(1) The purpose of the preparatory procedure is to determine whether the suspicion of a crime exists.
(2) Preparatory proceedings may be continued if the available data are not sufficient to establish the suspicion of a crime and it can be reasonably assumed that, based on the conduct of the preparatory proceedings, it can be decided whether the suspicion of a crime exists.
(3) Preparatory procedure
a) the body became aware of ex officio,
b) following the rejection of the report, as stated in the report, or
c) contained in the initiative of the body conducting the secret information collection following the collection of secret information carried out on the basis of the Act on the Prosecutor's Office, the Act on the Police, the Act on the National Tax and Customs Administration or the Act on the National Security Services
can be ordered based on information.
(4) In the case of point c) of paragraph (3), the body defined in § 339 shall decide on ordering the preparatory procedure within three working days after receiving the initiative of the body collecting secret information.

Section 341

During the preparatory procedure, the body conducting the preparatory procedure for the purpose of establishing the suspicion of the crime
a) a hidden device defined in paragraphs (1)–(2) of § 215,
b) covert surveillance,
c) a concealed device defined in § 215, paragraph (9),
d) 216–218. concealed device defined in §

e) fraudulent purchase based on point a) of § 221,
f) 222–225. an undercover investigator based on §, as well as
g) a concealed device subject to judicial permission
can apply.

Section 342
(1) During the preparatory procedure, the data collection activity defined in Part Seven can be carried out with the restrictions defined in paragraphs (2) and (3).
(2) A warrant may not be ordered during the preparatory procedure.
(3) During the preparatory procedure, data is only provided as part of a data request
1. from the tax authority,
2. from the customs authority,
3. CXXII of 2019 on those entitled to social insurance benefits and the coverage of these benefits. from the administrative body defined in Section 4, Point 8 of the Act,
4. from the electronic communications service provider,
5. from the postal service provider, or from the person or organization performing postal cooperative activities,
6. from the body handling data classified as bank secrets, payment secrets, securities secrets, treasury secrets or insurance secrets, in relation to such data,
7. XLVII of 1997 on the management and protection of health and related personal data. from an organization managing health and personal data defined by law, regarding such data,
8. CVII of 1995 on the penal organization. § 28 and 28/A. from the register kept on the basis of §
9. from the register containing the personal, residential and notification address data of citizens,
10. from the travel document register,
11. from the records specified in the law on the criminal registration system, on the registration of judgments handed down by the courts of the member states of the European Union against Hungarian citizens, and on the registration of criminal and law enforcement biometric data,
12. from the infringement registration system,
13. from the central immigration police register,
14. from the asylum register,
15. from the warrant registration system,
16. from the border police data file,
17. from the road traffic register,
18. from the registers related to railway vehicles, aircraft and mechanically propelled floating facilities,
19. from the company register,
20. from the real estate register,

21. from the Register of Partnership Declarations,
22. from the credit guarantee register,
23. from the national register of marriage and cohabitation property contracts,
24. from the central register of firearms,
25. from the database in accordance with the Act on the Proportional Fee for the Use of Motorways, Motorways and Main Roads,
26. from the central traffic administration and inspection fine register,
27. in cases specified by law, from the register created by a mandatory legal act of the European Union,
28. from the authority operating as a financial information unit according to the Act on the Prevention and Suppression of Money Laundering and the Financing of Terrorism can be requested.

Section 343
(1) During the preparatory procedure, covert devices subject to judicial authorization may be used against the person, in order to establish the suspicion of a crime,
a) who can be considered as the perpetrator of the crime, or
b) who can reasonably be assumed to be in direct or indirect contact with a person who can be considered as the perpetrator of the crime.
(2) Based on point b) of paragraph (1), a concealed device subject to a judicial license cannot be used
a) for the purpose of learning about confidential information, against a person who, by virtue of his profession, occupation or public mandate, is obliged to maintain confidentiality, who cannot be questioned as a witness based on point b) of § 170, paragraph (1), or who could refuse to testify on the basis of § 173,
b) for the purpose of getting to know the classified data, against the person handling the classified data who would not be able to be questioned as a witness based on § 170, subsection (1), point d),
c) for the purpose of learning the identity of the person providing information in connection with the media content service provider's activity, against the person who could refuse to testify on the basis of § 174.
(3) On the basis of point b) of paragraph (1), a hidden device may be used against the relative of the person specified in point a) of paragraph (1) only for the purpose of learning the whereabouts and contact information of the person who can be considered as the perpetrator.
(4) The use of covert devices subject to judicial permission is not an obstacle if it unavoidably affects an outsider.

Recent studies have analysed and frequently analyse the peculiarities and typologies of (EU-)frauds quite extensively and they are therefore highly important for EDPs and their knowledge about the structures of this crime area (criminological insights): **37**

- National level: National Crime Statistics

- EU-level: PIF Reports, Rule of law Report, "Impact of Organised Crime on the EU's Financial Interests"[69]

Nota bene: The Anti-Fraud Knowledge Centre hosted by the EU Commission/OLAF provides information on fraud patterns, prevention tools and case studies.

ee. Examples and precedents

38 There are different types of fraud against the EU budget. A basic distinction must be made between fraud on the revenue side and fraud on the expenditure side. This separation applies not only to investigations by the delegated public prosecutors, but also to OLAF investigators and national authorities in administrative procedures (especially on the expenditure side, for example in the case of subsidies). It can be distinguished between:

- Non-procurement expenditure fraud
- Procurement expenditure fraud
- VAT revenue fraud
- Non-VAT revenue fraud
- corruption cases[70] (4% in 2021).

c) Peculiarities differentiated by PIF offences

39 The peculiarities can be differentiated by PIF offences, which is called typologies of EU frauds.

d) Fraud

40 Fraud may include primarily **damage to the budget**.[71] There are two ways the budget may be damaged. First by revenue frauds (aa.) and seconly by expenditure-related budget fraud (bb.).

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[69] See Malan, Bosch and Chen 2022, pp. 15 et seq.: Common EU frauds include subsidy fraud, customs/import fraud, VAT fraud (e.g. MTIC), excise fraud (tobacco, oil, alcohol), and social benefit fraud & often involve organized crime and corruption.

[70] Nota bene: Section 20 of the Hungarian CPC states that the courts of first instance have according to Section 20 para 1 n°11 CPC jurisdiction over criminal offences. And according to Section 30 the prosecution service shall investigate the following criminal offences […] including "f) active bribery regarding a public officer, passive bribery regarding a public officer, active bribery in court or in authority proceedings, passive bribery in court or in authority proceedings, active trading in influence committed concerning a public officer or a foreign public officer as defined in section 298 (1), (1a), and (3) of the Criminal Code, passive trading in influence committed concerning a public officer or foreign public officer as defined in section 299 (1), (2), and (5) of the Criminal Code, and failure to report a corruption criminal offence, […] "(Exclusive prosecutorial investigation). To discover corruption offences Section 234 CPC offers the most intrusive investigation means: Section 234 (1) Covert means subject to permission of a judge may be used regarding intentional criminal offences punishable by imprisonment for five years or more "f) corruption criminal offences, except for failure to report a corruption criminal offence".

[71] See Tibor 2022, p. 69–87 on budget fraud. Tibor 2021/2. 29—46 at 29: "As many authors have pointed out, in 2011, the legislator reconsidered the criminal law protection of public funds in our country – for the sake of efficiency – in 2011, giving greater importance to the protection of the budget than ever before."[Our translation]; Szentpáli 2020, 30–48, 56–57 with comments to patterns identified in budget fraud investigations: "In connection

aa. Revenue frauds

Revenue frauds are manifold. First, the scheme should be identified. For this, it is worthwhile to compare the suspected behaviour with known behaviour patterns. From a legal as well as a police point of view, the overview of crime patterns is useful. VAT fraud[72] may be concerned as well as customs duties fraud. A recent dissertation pointed out that: "According to the hypothesis of the [cited] dissertation, the current applicable regulations and practices are suitable to adequately serve the protection of the Hungarian state budget and the resources of the European Union. However, in my point of view, effective criminal law protection can no longer operate 'island-like' today and rely solely on law instruments regard to protect budgetary revenues. Corresponding the supplementation of sanctions from other areas of law and the means available in criminal law and its complex enforcement should result in a change and extension of the traditional conception of financial criminal law."[73] **41**

bb. Expenditure frauds

Case Study 1: Budget fraud resulting in a Judgement by Capital Court as a second instance court, (Fővárosi Ítélőtábla mint másodfokú bíróság 2.Bf.141/2018/14. Szám)

	Case Studies: Budget fraud resulting in a Judgement by Capital Court as a second instance court

Summary of the Case

The case dealt with two defendants. The lower court had decided that the first defendant recognised the fiction of the submitted application for the purchase of a machine. The court held the two to be accomplices because of all of this. The OLAF Fraud Office carried out investigations and discovered that the machines had been revamped.

The statute of limitations was questionable. However, the Court of Appeal also considered the statements of the first instance to be correct, although the defense attorney had argued vehemently against them. It was specifically about the accusation of budget fraud, see → section 396 CC.

The Metropolitan Prosecutor General's Office of Appeal continued to present facts in a Budget fraud case.

Excerpts from the Judgement: "On the basis of the public continuing hearing held on the 5th and 6th of November 2018, the Capital Court of Justice as the court of

with the cases, it most often happens that the accounting documents are disappeared, or the company is handed over to another Stroman person, primarily of Ukrainian or Romanian nationality persons and refer to the fact that the accounting documents were handed over to them. […] Nowadays, however, VAT fraud within the community flourishes, as already mentioned above fixed, certain products such as grain, flour, sugar, milk and nowadays mineral oil are obtained, primarily from neighboring countries such as Slovakia and Poland.

[72] See Tibor 2022, pp. 128–129 with regard to the PIF Directive.

[73] See Tibor 2022, p. 265.

second instance in Budapest made and announced on November 6, 2018 the following
1.B.229/2017/85–I, dated February 20, 2018, in the criminal case against the accused Ir and his associates for the crime of budget fraud causing particularly significant financial loss. all defendants will change their verdict no.
The accused no 1 r. classifies the accused's act as committed as an accomplice, regards his sentence of imprisonment for 6 (six) years, disqualification from public affairs as a secondary punishment, and increases its duration to 6 (six) years.
The defendant is also sentenced to a fine of 500 (five hundred) daily items. The amount of a daily item is set at HUF 10,000 (ten thousand). In the event of non-payment of a total of HUF 5,000,000 (five million) imposed in this way, it must be converted into imprisonment
The II.r. declares the accused guilty of the crime of budget fraud committed as an accessory (Btk.§ 396. (1) paragraph a./and (5) paragraph a./). Capital Court as second instance court 2.Bf.141/2018/14. song
Therefore, he is sentenced to 2 (two) years of imprisonment, the degree of execution of which is prison.
The accused no 3 qualifies the accused's act as an accomplice, increases the probationary period of the suspension of imprisonment to 4 (four) years. It omits the provision on prior exemption.
On the basis of the public continuing hearing held on the 5th and 6th of November 2018, the Capital Court of Justice as the court of second instance in Budapest made and announced on November 6, 2018 the following The execution of the prison sentence is suspended for a probation period of 5 (five) years.
The accused no 4 declares the accused guilty of the crime of budget fraud committed as an accomplice (Btk. § 396. (1) paragrapha./, (4) paragraph a./). Therefore, he is sentenced to 1 (one) year and 2 (two) months of imprisonment, the degree of execution of which is prison.
1.B.229/2017/85-I, dated February 20, 2018, in the criminal case against the accused Ir and his associates for the crime of budget fraud causing particularly significant financial loss. all defendants will change their verdict no.
The execution of the prison sentence is suspended for a probationary period of 4 (four) years.
II. corrects the defendant's year of birth.
From imprisonment to accused no 2 and accused no 4 in the event of its execution, the accused may be released on parole no earlier than the day after 2/3 of the sentence has been served.
In other respects, the judgment of the first-instance court is upheld. Against the judgment accused no 2 r. and accused no 4 there is room for appeal in relation to the accused. […]"

The **first-instance court** correctly took a position regarding the objection of limitation presented in connection with the act described in the first point. While the criminal offenses that are part of each other are subject to the statute of limitations separately, the individual statutes of limitations committed consecutively are excluded. With regard to crimes that damage the budget, Act IV of 1978, effective from January 1, 2012. § 310 (1) of the Act (old Btk.) created a legal unity on both the revenue and expenditure side for all cases of fraud that involved damage to the budget.

Based on all of this, the court of first instance correctly determined December 17, 2012 in the case of the I. accused as the starting date of the statute of limitations, while the III. in the case of order, March 19, 2012. In agreement with the position of the tribunal, according to which the independent statute of limitations of the act written in point 1 (on December 7, 2015) is excluded, the judgment panel deems it necessary to supplement the position of the first instance court in this round with the following: – the investigation is based on the KEHI dated July 12, 2013 to his report (printed document, volume I. pages 115–122) started on July 3, 2013 (printed document, volume I. page 113). The report refers only to the project written in charge 1/b (fact point 2), but also states that OLAF is conducting an investigation into Zrt1. Regarding EU tenders between 2009 and 2011 – on February 2, 2012, *OLAF launched an external investigation in relation to 12 projects, which covered a total of four beneficiaries of EU funds who have commercial relations with each other. Zrt1 is among the beneficiaries. and Kft2. (printed file, Volume III, page 937, page 4, paragraph 1 of the OLAF final report) – on-site inspections held by OLAF in Hungary from April 24, 2012 (final report pages 12–13) regarding the projects that also affect the indictment, – its final report was completed on December 9, 2014. – OLAF's final report was received by the Hungarian investigative authority on February 3, 2015 (print file, volume III, page 861). until then: – from December 11, 2013, on the basis of OLAF's signal, the Hungarian investigative authority extended the investigation to the projects indicated in charges 1/c and 1/d (print document, volume I, pages 501–504)* – 1/a In terms of the earliest facts at the time mentioned in point 1, the first investigative action (June 17, 2015) is the application and the acquisition of the documents (publication documents, volume IV, page 271), and then the evaluation of which investigative actions, even without legal unity, interrupt the statute of limitations, from then on the investigation of the Hungarian authorities covered all the acts described in the indictment."

The Second Instance Court later referred to minor failures of the first instance court and corrected them by bringing forward more evidence from the documents already presented in the first trial:

Taking into account the incompleteness of the first-instance court's evidence evaluation activity, the sentencing panel supplements the list and analysis of the evidence with the following, largely in light of the documents presented at the second-instance

trial. As previously mentioned, **OLAF conducted an investigation** into the projects mentioned in the indictment, and summarised its results in a final report.
The final report, and all the documents used during the investigation can be found among the investigative documents (Volume III, Annexes IV/1, 2, 3 and V/1, 2, 3).
The presentation of the final report in the first instance and the presentation of the documents processed in it took place in the second instance hearing. The judging panel evaluated the contents of the final report and the attached documents as evidence during the proof based on Article 11 of Regulation 883/2013/EU, EURATOM (on investigations conducted by OLAF) of the European Parliament and the Council. Regulation 883/2013/EU of the European Parliament and of the Council, EURATOM (on investigations conducted by OLAF Article 11 of the chapter Investigation report and follow-up measures, paragraphs 2, 4 and 5 of OLAF reports prepared during the investigation are considered evidence in administrative or judicial proceedings in the same way and under the same conditions as reports prepared by the National Public Administration Examiners of the given country. The Treaty on the Functioning of the European Union (EU Treaty, TFEU) is the so-called Union Treaty that regulates the Regulation as the strongest of its secondary law: "Art. 288., The Regulation has general effect, is fully binding and directly applicable in all member states." According to the just described Regulation on OLAF, it is effective in any member state without transposition, and what is written in the regulation is directly applicable in the scope of law enforcement.

In the course of the investigation, several evaluations and analyzes of the machines written in the facts were obtained. These are: – Commerzbank analysis 2013. III. 25. (print. document V from page 1003) – valuation prepared by the senior asset appraiser on behalf of Commerzbank in 2013 (print. annex III. from page 611) – noted by the judicial technical asset valuation expert, kft.2. on behalf of the liquidator, 2014. XII. The evaluation expert opinion of the device prepared on the 11th (printed from volume IV. page 551) was later attached to Zrt1 during the court proceedings. on behalf of the liquidator, 2014. XII. also the opinion prepared on 3 (no. 75 ui.) – by the judicial technical expert of Zrt1. on behalf of the liquidator, 2015. IV. 13 of its turnover valuation (print. Annex III, from page 703) – written by the valuation expert on behalf of Commerzbank, VI. 2015. Appraisal of the instrument prepared on 27 (print. No. III, p. p. 665), which were used as documents during the proof. [...]
Regarding the companies and persons participating in the projects, the first defendant made the following statements during the OLAF investigation: he does not have any Samoan offshore companies under his supervision or ownership, neither he nor Zrt1 has any influence over Kft1 or Ldt2. operation, they are only suppliers to Zrt1. He met Tanú1 several years earlier in connection with textile trade, he has a minority share in the company, which is Zrt1. Investment company. In some cases, he also provided them with loans, but these had nothing to do with EU tenders. Ltd2. is not

a machine manufacturer, it only purchases and distributes the machines in a business-like manner, and subcontracts the assembly of the machines.
Zrt1. (purchase, sales, cluster management, financing, organization, investment preparation, technical development, coordination) Kft.3. (confectionery) Kft1. (TMK, renovation, investment management) and Kft2. (confectionery). [...]
OLAF's investigation established that the machine marked as LH NL TH36 is actually a Sun Master type paper bag making machine, manufactured by the Italian company, which sold the machine to Kft1 on December 16, 2004. (final report pages 31–33) In the warranty certificates Kft1. the accused Ir was named as his contact person
The result of correspondence with CST, the warranty card for the Nordson melters used in the Italian machine, the sales contract for the Sun Master machine, invoices and bills of lading, a copy of the machine's instructions for use (which, translated from Italian to Hungarian, is the same word for word as the one provided by defendant II.r. with the instruction manual of the LH NL TH36 machine handed over during the OLAF on-site inspection), the kW and Kg data on the identification label of the machine photographed during the on-site inspection are the same, the Italian inscriptions were still found on the machine around the switches.
Additional evidence is the photographs taken on the computer of the Curioni Sun and the LHNLTH36 machine extracted during the IT data backup, on the basis of which it can be established that the two machines are identical (printed document, volume V, pages 15 and 351–379
[...]
During the on-site inspection held on April 24, 2012, defendant Ir stated in this context that Ltd2. it is not a machine manufacturer, it only carries out procurement and distribution in a business-like manner, and assembles the machines with subcontractors (print. Volume I, page 578). The inspectors could not reach the company, its website could not be found.
OLAF carried out additional inspections at Zrt1. by Zrt2. based on the delivery documents sent to him by (final report pages 35–39).
According to this, the machine was purchased by Ltd2. sent it in container marked MSCU478838-7. According to the C-HAWK container tracking database, the container was loaded onto MSC Dympha in Izmir, Turkey on October 5, 2010. OLAF inspectors learned from NHBV that no Newlong type machines were sold directly to Zrt1. for, they are, however, aware of two used images that Zrt1. Bought in Turkey.
[...]
The Commerzbank report classifies the machine as 10–15 years old, the expert3. type of report describes it as "non-existent, cannot be found elsewhere". The expert2.-expert1. expert opinion identifies it with a Newlong 148T+504TH type machine manufactured in 2004-2005. Regarding the two types and time of origin of the latter statement, Zrt1. with the information

obtained from the manufacturer of the Newlong machine on April 8, 2016 by the liquidator (printed volume V, pages 901–907
[...]
Zrt1. customer and Kft1. between the seller, the purchase price was repaid as follows according to the available bank statements,
invoices and other documents (printed volume V. pages 947–949, 998, 1079–1153):
– Zrt1. 2012. III. On the 29th, Kft1 transferred
HUF 518,320,000 to Kft1. 2012. III. On the 30th, he transferred HUF 518,000,000 to Zrt
Zrt1. April 2012 On the 3rd, he transferred HUF 440,117,715 to Kft1 – on
the same day, Kft1. to Zrt1 HUF 129,700,000.
- He transferred HUF 90,000,000 to Kft3.
- on the same day Kft.3. transferred HUF 89,000,000 to Zrt1
- Zrt1. April 2012 On the 6th, he transferred HUF 238,528,000 to Kft1
- Kft1. April 2012 On the 16th, Kft7. for HUF 65,000,000, – Kft3.
Transferred HUF 185,000,000 as a loan

[...]
There is also a lot of evidence that the defendants did not actually intend to transfer the amounts claimed and won during the tender to the purpose of the tender, too. The first-class defendant only made a statement to the contrary during the OLAF investigation, but withdrew this statement during the criminal proceedings.
According to the call for tenders, the purpose of all the projects written in the indictment is to purchase new machinery and equipment, which, according to the definition of the tender concept, must be understood as a machine no older than two years that has not yet been in use. In the individual project offers, there were lines of technically complex machines applicable to special needs, the production of which also requires a high degree of technical preparation and production experience. With this kind of experience, as well as the material assets necessary for production, and a team of professionals, Zrt1. operating as its maintainer and providing a price offer for all points of fact, and in the case of points of fact 1 and 4, the supplier Kft1. did not have, the company manager II.r. accused, but not according to the witnesses working there either.
The offshore company registered in Samoa is Ltd2. In the case of the case, there is not even that much information available regarding the production, but it is a fact that the company manufacturing the Newlong machine, which is designated as the basic unit of the machines, did not sell any new or used machines to any suppliers or customers.
[...]
The fact that the defendants had no intention of realizing the project's goal is also proven by the fact that the suppliers usually paid the purchase price long before the

delivery of the individual machines without any guarantee, and they did not have any information about the machines to be manufactured or their level of readiness.
[...]
The available evidence also clearly proves that the tender funds were not used for the intended purpose.
[...]

According to the call for tenders, the purpose of all the projects written in the indictment is to acquire new machinery and equipment, which, according to the definition of the tender, must be understood as an image that is not older than two years and has not yet been used. The identification of individual machines by OLAF investigators and experts with previously used machines with the technical documentation proving their use, Zrt2. is consistent with the results of its on-site inspection, Commerzbank's report, documents confirming delivery, and their testimony.
In addition, it can be established that in the case of all projects, the original delivery deadline has expired, and subsequent modifications have been requested. Regarding the seriousness of their intentions, the fact that in the case of points 1 and 4 the machines marked on the original project data sheet and which received the subsidy were later replaced, the machines were later sold to the previous seller (Nos. 36 and 54. machines). Constant changes regarding suppliers, deadlines and types of machines cannot be explained during normal economic operation.
The extensive evidence carried out by the first-instance court in this regard undoubtedly justifies the replacement of data plates placed on the machines originating from the original manufacturer, the judgment board agrees with the assessment by the tribunal, taking into account the evidence supplemented above. At the same time, the replacement of the plates served not only the purpose of displaying the used machines as new, but also so that the origin of the machines could not be identified in the future.
Based on the evidentiary procedure that was carried out, the judging panel saw it as proved without a doubt that there was no real economic relationship between the companies mentioned in the indictment as indicated in the contract. It was falsely stated on the documents that the machines according to the support contract had been purchased and put into operation. The defendants did not actually intend to transfer the amounts claimed and won during the tender to the purpose of the tender – the purchase of new machinery and equipment – on the contrary, their intention [dolus directus] was to obtain the non-refundable subsidy amount for the purpose of making a profit.
[...]
From the established facts, the first-instance court reasonably concluded that the I. and III. on the guilt of the defendants, and took a correct position regarding the criminal law applicable to the defendants, but the legal classification of the act is not precise.

[...]
According to the judicial practice, during the assessment of merit, the offender's personality, way of life, the nature and seriousness of the crime, the circumstances and reason for the offense must be taken into consideration when applying this exceptional institution.
The III. in the case of the accused, the first-instance court has already evaluated the favorable provision that supports the suspension of the execution of the prison sentence, which has already been evaluated when imposing the sentence and the application of the mitigating phase. However, the worthiness of the accused must be examined not only from the point of view of personal relationships, but also from the side of material factors. According to the opinion of the sentencing panel, the material gravity and nature of the crime committed, even in addition to the favorable subjective aspect, do not make the defendant worthy of a preliminary discharge, therefore the relevant provision was omitted."[74]

Source: Hungarian Case Law Portal.

42 The following analysis of the case, which was presented in excepts above should help to exemplify which evidence can be used for the writing of an indictment. An indictement usually needs sufficient proof of the offence before it will be accepted by a Hungarian court. It will in the evidentiary procedure need to convince the judging panel. To this end, the CNP volumes research team carried out a database search and methodically compared it with other countries. We found the judgment quoted above, which once again very clearly shows numerous references to the Europeanised collection of evidence. The instances of the courts all based their judgements on evidence obtained by Hungarian authorities with the help of European authorities, which illustrates the Europeanisation very transparently.

43 As Hungary has so far continued to prosecute offences against the Union independently, it is dependent on OLAF for transnational evidence gathering. Hungary co-operates with OLAF, which means that the OLAF reports presented in the last part of this volume can be used as evidence – especially when it comes to large subsidies for the purchase of machinery, as is the case here.

[74] Fővárosi Ítélőtábla mint másodfokú bíróság´, 2.Bf.141/2018/14. Szám [see already above "Collection of cases"].

The summary and analysis on how Evidence was obtained in the analysed case indicates on what investigations should concentrate on. The investigations measures and evidence gathered and used were: **44**

- External investigations and On-site-inspections of OLAF
- OLAF Reports
- Commerzbank Report
- Expert opinions
- Online Search for the company and its Website (not found)
- Financial experts
- Two forensic expert opinions
- Listed documents
- Extensive documents analysis
- Identification of the machine
- Identification of fictious receipts and beneficiary information
- Statements and summoning via OLAF investigators and national tax investigators (OLAF Hearing)
- Photographs on computer
- Computer files
- Computer seized during the IT data backup
- E-Mails obtained from all companies involved
- Investigative documents
- MFB Loan Investigation Document
- Bank Statements
- Account Documents
- Deadline documents
- Tender documents
- Purchase documents

Comment to the Case:

This case, heard before a Hungarian criminal court, clearly shows how complicated and "convoluted" cases of budget fraud can be. The courts and the investigative authorities had to unravel a vague tangle of companies and had to deal with all kinds of evidence in order to get compelling evidence that could be used in court. The case shows in a broader sense that Hungary is basically capable of effectively fighting EU fraud with its judicial system, but from our point of view it would make a difference whether EDPs or Hungarian prosecutors investigate, since the independence of the prosecutors for the European cause and the Union's finances is in a position higher than that of EDP. The gathering and investigation of evidence would be much easier with the help of the EPPO, its resources, its data accessing abilities, as transnational evidence could be collected in the simplest way and even if OLAF does not "represent the police for the EPPO" in this case it has been proven that OLAF reports can be potent evidence in Hungarian criminal **45**

proceedings, which is why Hungary is not part of the EPPO, it is correct to strengthen OLAF in Hungary and in all non-participating states, if necessary by expanding the regulation.

(1) Money laundering cases

46 Europol has reported quite frequently from cases that involved Hungarian authorities. In this particluar case the Budapest Metropolitan Police (*Budapesti Rendőr-főkapitányság*) supported Europol. They investigated a criminal organisation, which was involved in money laundering and perpetrating fraud using administrative documents.[75]

(2) Corruption cases

47 Corruption cases are still very frequent and recently the so-called *Schadl-Völner* case showed again that this conduct happens too often.[76]

e) Hypothetical consideration: Actions if "Decision to open a case" (Regulation + Rules in IRP, 2020.003 EPPO)

48 If he/she decides to initiate an investigation he/she must note this in the case management system (Art. 45 para 1 EPPO Regulation, 38 IRP[77]). In addition, the numerous obligations to provide information from Art. 24 para 3 to 8.
If an investigation is opened by virtue of Art. 26 para 1 EPPO Regulation, he/she must insert the following information in the Case Management System according to Art. 38 para 3 IRP:

f) Hypothetical consideration: Consequences to the "Decision to open a case"

49 If this decision has been achieved the EDPs will need to plan on how to conduct the investigation and gather the relevant evidence in order to collect all information that is necessary to prove a criminal offence ie a criminal liability and the elements that constitute the whole concept of crime in general. A PIF offence will need to be assessed by the relevant conditions for a crime ie the elements of a particular PIF offence of the present country.

[75] Europol, Press Release, 30.5.2022, Five arrests in Hungary for money laundering across three continents About EUR 44 million passed through bank accounts linked to the criminal network, https://www.europol.europa.eu/media-press/newsroom/news/five-arrests-in-hungary-for-money-laundering-across-three-continents.
[76] See https://index.hu/belfold/2023/02/23/volner-pal-schadl-gyorgy-korrupcio-fovarosi-torvenyszek/: "According to the indictment, György Schadl, the president of the Executive Faculty of the Hungarian Court, established a corrupt relationship with Pál Völner, the then parliamentary state secretary of the Ministry of Justice, before May 2018. As part of this, György Schadl regularly gave cash – 2–5 million forints until July 2021, a total of at least 83 million forints – to the politician, who therefore exercised his influence from his position as state secretary and deputy minister in accordance with the interests of the person who bribed him."
[77] See https://www.eppo.europa.eu/sites/default/files/2020-12/2020.003%20IRP%20-%20final.pdf.

The EDPs will need to focus on the actus reus and the mens rea conditions of the relevant offence.[78] In other words: What German criminal justice calls "*Tatbestand*" (*Büntetőjogi bűncselekmény*)[79], in relation to the German substantive criminal law enshrined in the Criminal Code or partly in ancillary (not: secondary) criminal law) needs to be assessed according to the requirements that the legislator set up, which includes the concretization of the objective elements (actus reus, see above) of the crime[80], the subjective elements (*mens rea*)[81] as well as the unlawfulness of the conduct (ie no written or unwritten justifications/justificatory defenses[82] must intervene) and last but not least the guilt of the offender, which is given if the potential perpetrator is not excused for his/her conduct in relation to a PIF offence.[83] **50**

Similar or the same conditions exist in relation to the general part of the offense (ie a PIF offence, Art. 22 EPPO Regulation, Art. 1–5 PIF Directive) in almost every country in the EU, with a divide running where common law differs and civil law countries encounter. **51**

In addition, it is important to determine how the indictment should look like: Are several people involved and is there not an isolated act, but possibly a complicity (*Bűnrészesség*) or an indirect perpetrator (*közvetett elkövetés*)? In addition, the questions of the criminal liability of a participant must be clarified in order to be able to determine whether an incitement to a PIF offense or an abetting (*Segítségnyújtás és bűnpártolás*) to such an act exists.[84] **52**

If there is no success to a crime, the question arises as to whether a criminal offense can be determined because of the attempt of a PIF offence. [85] **53**

For all of these questions and purposes, the EDPs can additionally to the present presentations, analysis and manual references rely on the existing legal commentaries on the penal codes of the EU Member States and the code of criminal procedures of the Member States, which participate in the EPPO, insofar as national law is concerned, e.g. in the concept of a criminal offence or the start of an investigation. **54**

[78] See for the common terms in comparing criminal law and criminal procedure Child, Simester and Spencer 2022, Chapter 4 et seq.; Chapter 5, Chapter 15 on Fraud (relevant for Ireland, Malta, Cyprus).
[79] Bohlander 2009, pp. 29 et seq. For the Hungarian perspective see Karsai and Szomora 2019.
[80] These include in the most criminal law systems questions of causual links, Authorship, causality, "scientific causation"(emphasis added to the cited book) adequacy, limitation of an endless *sine qua non formula*, etc., see recently Walen and Weisser 2022, pp. 57–94.
[81] See only out of many Safferling, Vorsatz und Schuld: subjektive Täterelemente im deutschen und englischen Strafrecht, who points at the fact that the traditional german terms are "intention" and culpability. But even if the terminology is not congruent and differs in detail, it can be said that these are elements of the subjective offense that occur in continental European criminal codes and are also required separately by the PIF Directive for PIF offenses.
[82] This is a worldwide recognized condition as a basic element of the concept of crime, see Stasi 2021, pp. 31–47.
[83] See Eser 1987 on the historical implications and the differences between the common law and civil law approach; Bohlander 2009, 29 et seq., 77 et seq. (Rechtswidrigkeit), 115 et seq. ("Guilt and Excusatory Defences").
[84] See EU Fraud Commentary, Commentary on PIF Directive, Art. 5. For the various translations of these terms see the EUR-Lex database translations of the PIF Directive 2017/1371.
[85] See EU Fraud Commentary, Commentary on PIF Directive, Art. 5.

2. Waiving the Charges, Being Hindered to prosecute by Statues of Limitations and Hypothetical considerations for Article 27 EPPO in Hungary?

Art. 27 Right of evocation

1. Upon receiving all relevant information in accordance with Article 24(2), the EPPO shall take its decision on whether to exercise its right of evocation as soon as possible, but no later than 5 days after receiving the information from the national authorities and shall inform the national authorities of that decision. The European Chief Prosecutor may in a specific case take a reasoned decision to prolong the time limit by a maximum period of 5 days, and shall inform the national authorities accordingly.

2. During the periods referred to in paragraph 1, the national authorities shall refrain from taking any decision under national law that may have the effect of precluding the EPPO from exercising its right of evocation.

The national authorities shall take any urgent measures necessary, under national law, to ensure effective investigation and prosecution.

3. If the EPPO becomes aware, by means other than the information referred to in Article 24(2), of the fact that an investigation in respect of a criminal offence for which it could be competent is already undertaken by the competent authorities of a Member State, it shall inform these authorities without delay. After being duly informed in accordance with Article 24(2), the EPPO shall take a decision on whether to exercise its right of evocation. The decision shall be taken within the time limits set out in paragraph 1 of this Article.

4. The EPPO shall, where appropriate, consult the competent authorities of the Member State concerned before deciding whether to exercise its right of evocation.

5. Where the EPPO exercises its right of evocation, the competent authorities of the Member States shall transfer the file to the EPPO and refrain from carrying out further acts of investigation in respect of the same offence.

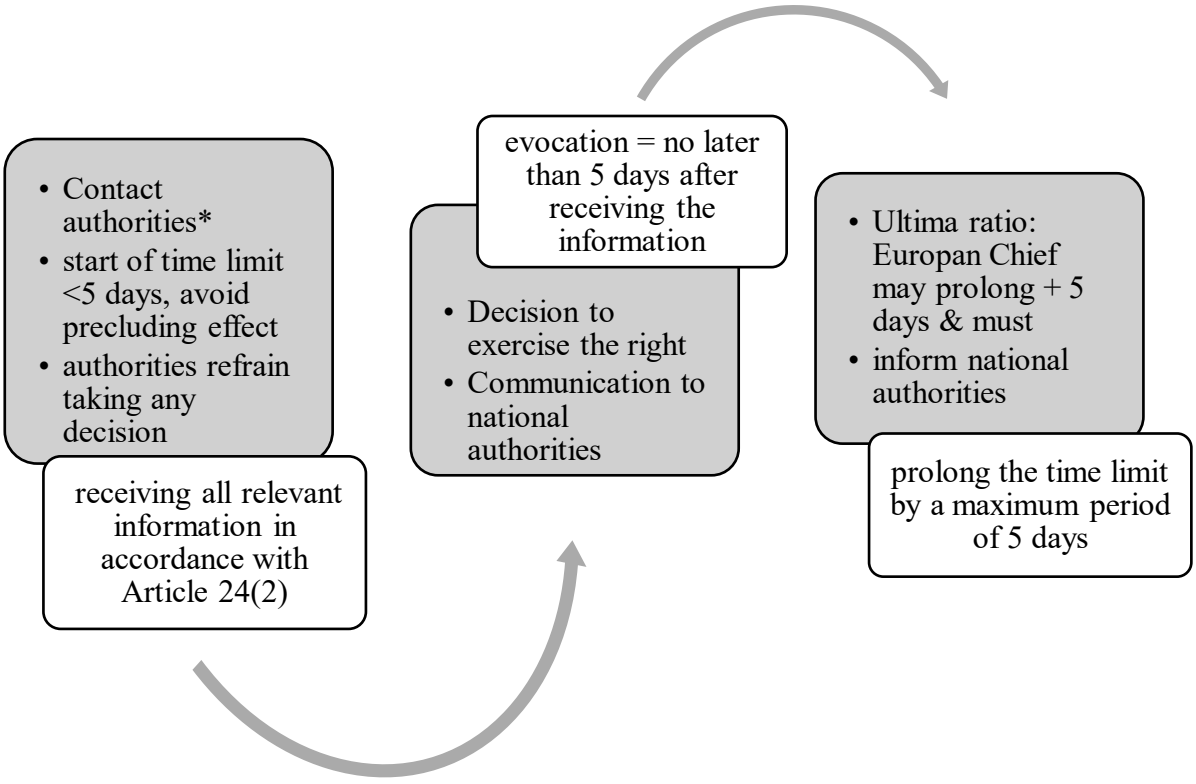
6. The right of evocation set out in this Article may be exercised by a European Delegated Prosecutor from any Member State whose competent authorities have initiated an investigation in respect of an offence that falls within the scope of Articles 22 and 23.
Where a European Delegated Prosecutor, who has received the information in accordance with Article 24(2), considers not to exercise the right of evocation, he/she shall inform the competent Permanent Chamber through the European Prosecutor of his/her Member State with a view to enabling the Permanent Chamber to take a decision in accordance with Article 10(4).
7. Where the EPPO has refrained from exercising its competence, it shall inform the competent national authorities without undue delay. At any time in the course of the proceedings, the competent national authorities shall inform the EPPO of any new facts which could give the EPPO reasons to reconsider its decision not to exercise competence.
The EPPO may exercise its right of evocation after receiving such information, provided that the national investigation has not already been finalised and that an indictment has not been submitted to a court. The decision shall be taken within the time limit set out in paragraph 1.
8. Where, with regard to offences which caused or are likely to cause damage to the Union's financial interests of less than EUR 100 000, the College considers that, with reference to the degree of seriousness of the offence or the complexity of the proceedings in the individual case, there is no need to investigate or to prosecute at Union level, it shall in accordance with Article 9(2), issue general guidelines allowing the European Delegated Prosecutors to decide, independently and without undue delay, not to evoke the case.
The guidelines shall specify, with all necessary details, the circumstances to which they apply, by establishing clear criteria, taking specifically into account the nature of the offence, the urgency of the situation and the commitment of the competent national authorities to take all necessary measures in order to fully recover the damage to the Union's financial interests.
9. To ensure coherent application of the guidelines, a European Delegated Prosecutor shall inform the competent Permanent Chamber of each decision taken in accordance with paragraph 8 and each Permanent Chamber shall report annually to the College on the application of the guidelines.

If the EDPs in Hungary existed and they would not exercise the EPPO's competence by virtue of the Union's legality principle in due time on their own and hereby on behalf (*proprio motu*) of the Union and the Union's interests by analysing the *notitiae crimini europea*, ie the obligatory European PIF offences notices, which are sent to the European Prosecution Office in order to inform that a PIF offence is alleged or has been committed, the EDPs and the Chambers must decide on the evocation of cases from the national authorities on to the level of the Union competence. If the national prosecutor or a national office vested with investigative powers have already started investigating or the **1**

relevant person has taken any steps applying national law afterwards, these actions may have a precluding effect on the Right of evocation of the EPPO (cf. para 2 of Art. 27 EPPO Regulation).

2 In addition to that, if reading the following provisions one can take into account that some of them will apply as well to the EDPs if they want to file an indictment by virtue of the EPPO Regulation, ie the area, which is not in the focus of this compendium as the country chapters have the focal point on the start of investigations, the phase, in which, most likely a huge number of operations will cease already. But the same provisions that apply to the national authorities while standing still until the EPPO has decided to exercise its right of evocation or not (Art. 27) will apply in cases of EPPO indictments (Art. 34 et seq.) and preclude the filing of indictment by virtue of national law before a national court.

Figure 6: Right of evocation/time limits/refrain taking decisions that have a precluding effect



Caption: Hungarian Authorities.[86]

[86] See above → "Institutions".

a) Hypothetical considerations for provisions with a precluding effect for the Right of evocation of the EPPO, para 2

The statute of limitations in criminal law refers to the **maximum period** after an alleged offense within which legal proceedings must be initiated or completed. Once the statute of limitations expires, **prosecution cannot proceed**, even if the alleged offense was commit: 3

aa. Statute of limitations, Hungarian Criminal Code

Section 25[87]
Liability to punishment shall be terminated by
a) the death of the perpetrator,
b) statute of limitations,
c) pardon,
d) active repentance,
e) another reason specified in an Act.

Statute of limitations regarding liability to punishment
Section 26[88] (1) With the exceptions specified in paragraphs (2) to (3) and unless otherwise provided in the Act excluding the statute of limitations for certain criminal

[87] V. FEJEZET
A BÜNTETHETŐSÉGET MEGSZÜNTETŐ OKOK
25. § A büntethetőséget megszünteti
a) az elkövető halála,
b) az elévülés,
c) a kegyelem,
d) a tevékeny megbánás,
e) a törvényben meghatározott egyéb ok.

[88] A büntethetőség elévülése
26. § (1) A büntethetőség – a (2)-(3) bekezdésben meghatározottak kivételével, illetve az egyes bűncselekmények elévülésének kizárásáról szóló törvény eltérő rendelkezése hiányában – elévül a büntetési tétel felső határának megfelelő idő, de legalább öt év elteltével.
(2) A XXVII. Fejezetben meghatározott bűncselekmények büntethetősége tizenkét év elteltével évül el.
(3) Nem évül el a büntethetősége
a) a XIII. és XIV. Fejezetben meghatározott bűncselekményeknek,
b) az életfogytig tartó szabadságvesztéssel is büntethető bűncselekményeknek, és
c) a XIX. Fejezetben meghatározott, ötévi szabadságvesztésnél súlyosabban büntetendő bűncselekményeknek, ha a bűncselekmény sértettje a bűncselekmény elkövetésekor a tizennyolcadik életévét nem töltötte be.
28. § (1) Az elévülést félbeszakítja a bíróságnak, az ügyészségnek, a nyomozó hatóságnak, illetve nemzetközi vonatkozású ügyekben az igazságügyért felelős miniszternek vagy a külföldi hatóságnak az elkövető ellen a bűncselekmény miatt foganatosított büntetőeljárási cselekménye. A félbeszakítás napján az elévülés határideje ismét elkezdődik.
(1a) Ha az erős felindulásban elkövetett emberölés, a háromévi szabadságvesztésnél súlyosabban büntetendő szándékos súlyos testi sértés, az emberrablás, az emberkereskedelem és kényszermunka, a személyi szabadság megsértése, illetve − a 26. § (3) bekezdés c) pontjában foglalt kivétellel − a nemi élet szabadsága és a nemi erkölcs elleni bűncselekmény sértettje a bűncselekmény elkövetésekor a tizennyolcadik életévét még nem töltötte be, az elévülés határidejébe nem számít be az a tartam, amíg a huszonegyedik életévét be nem tölti vagy be nem töltötte volna.
(2) Ha a büntetőeljárást felfüggesztik, a felfüggesztés tartama az elévülés határidejébe nem számít be. Ez a rendelkezés nem alkalmazható, ha a büntetőeljárást azért függesztik fel, mert az elkövető kiléte a nyomozásban nem volt

offences, liability to punishment shall become statute-barred after a period corresponding to the maximum of the penalty range, but at least after five years.
(2) For criminal offences specified in Chapter XXVII, liability to punishment shall become statute-barred after twelve years.
(3) Liability to punishment shall not become statute-barred for criminal offences
a) specified in Chapters XIII and XIV,
b) that may be punished also by life imprisonment, and
c) specified in Chapter XIX and punishable by more than five years of imprisonment if the aggrieved party of the criminal offence had not attained the age of eighteen years when the criminal offence was committed.

Section 27[89]
The first day of the limitation period shall be
a) for a completed criminal offence, the day when the statutory elements are fulfilled,
b) for an attempt and preparation, the day when the act constituting the attempt or preparation is finished,
c) for a criminal offence that is committed solely by failing to perform an obligation, the day when the perpetrator could still perform his obligation without any consequence under this Act, d) for a criminal offence that is committed by maintaining an illegal state of affairs, the day when this state of affairs terminates.

megállapítható, ismeretlen helyen tartózkodik, vagy kóros elmeállapotú lett, továbbá ha a szabadlábon lévő terhelt külföldön ismert helyen tartózkodik és a büntetőeljárás a távollétében nem folytatható le.
(3) Az elévülés határidejébe nem számít be az a tartam, amely alatt a mentelmi jogon alapuló mentesség folytán a büntetőeljárás azért nem volt megindítható vagy folytatható, mert a törvényben biztosított mentelmi jogot a döntésre jogosult nem függesztette fel. Ez a rendelkezés nem alkalmazható olyan magánindítványra büntetendő bűncselekmény esetén, amely miatt a vádat a magánvádló képviseli.
(4) Próbára bocsátás esetén a próbaidő tartama és a jóvátételi munka tartama az elévülés határidejébe nem számít be.

[89] 27. § Az elévülés kezdő napja
a) befejezett bűncselekmény esetén az a nap, amikor a törvényi tényállás megvalósul,
b) kísérlet és előkészület esetén az a nap, amikor az ezeket megvalósító cselekmény véget ér,
c) olyan bűncselekmény esetén, amely kizárólag kötelesség teljesítésének elmulasztásával valósul meg, az a nap, amikor az elkövető még az e törvényben megállapított következmény nélkül eleget tehetne kötelességének,
d) olyan bűncselekmény esetén, amely jogellenes állapot fenntartásában áll, az a nap, amikor ez az állapot megszűnik.

Section 28[90]

(1) The limitation period shall be interrupted if the court, prosecution service, investigating authority, or, in a case with an international dimension, the minister responsible for justice or a foreign authority takes any criminal procedural action against the perpetrator due to the criminal offence. The limitation period shall start again on the day of interruption.

(1a) If the aggrieved party of homicide in the heat of passion, of intentionally causing grievous bodily harm if punishable by more than three years of imprisonment, of kidnapping, of trafficking in human beings and forced labour, of violation of personal freedom, or, with the exception specified in section 26 (3) c), of a criminal offence against the freedom of sexual life and sexual morality had not yet attained the age of eighteen years when the criminal offence was committed, the limitation period shall not include the period left until the aggrieved party attains or would have attained the age of twenty-one years.

(2) If criminal proceedings are suspended, the limitation period shall not include the period of suspension. This provision shall not apply if criminal proceedings are suspended because the perpetrator could not be identified during the investigation, his whereabouts are unknown or he became affected by a mental disorder, or if the whereabouts of the defendant at liberty abroad are known and criminal proceedings cannot be conducted in his absence.

(3) The limitation period shall not include any period during which criminal proceedings could not have been commenced or continued due to immunity arising from public office, because the immunity based on an Act was not lifted by the entity authorised to decide on the matter. This provision shall not apply to criminal offences punishable on the basis of a private motion, where a private prosecuting party represents prosecution.

(4) The limitation period shall not include the probationary period if release on probation is ordered, and the period of reparation work.

[90] 28. § (1) Az elévülést félbeszakítja a bíróságnak, az ügyészségnek, a nyomozó hatóságnak, illetve nemzetközi vonatkozású ügyekben az igazságügyért felelős miniszternek vagy a külföldi hatóságnak az elkövető ellen a bűncselekmény miatt foganatosított büntetőeljárási cselekménye. A félbeszakítás napján az elévülés határideje ismét elkezdődik.

(1a) Ha az erős felindulásban elkövetett emberölés, a háromévi szabadságvesztésnél súlyosabban büntetendő szándékos súlyos testi sértés, az emberrablás, az emberkereskedelem és kényszermunka, a személyi szabadság megsértése, illetve − a 26. § (3) bekezdés c) pontjában foglalt kivétellel − a nemi élet szabadsága és a nemi erkölcs elleni bűncselekmény sértettje a bűncselekmény elkövetésekor a tizennyolcadik életévét még nem töltötte be, az elévülés határidejébe nem számít be az a tartam, amíg a huszonegyedik életévét be nem tölti vagy be nem töltötte volna.

(2) Ha a büntetőeljárást felfüggesztik, a felfüggesztés tartama az elévülés határidejébe nem számít be. Ez a rendelkezés nem alkalmazható, ha a büntetőeljárást azért függesztik fel, mert az elkövető kiléte a nyomozásban nem volt megállapítható, ismeretlen helyen tartózkodik, vagy kóros elmeállapotú lett, továbbá ha a szabadlábon lévő terhelt külföldön ismert helyen tartózkodik és a büntetőeljárás a távollétében nem folytatható le.

(3) Az elévülés határidejébe nem számít be az a tartam, amely alatt a mentelmi jogon alapuló mentesség folytán a büntetőeljárás azért nem volt megindítható vagy folytatható, mert a törvényben biztosított mentelmi jogot a döntésre jogosult nem függesztette fel. Ez a rendelkezés nem alkalmazható olyan magánindítványra büntetendő bűncselekmény esetén, amely miatt a vádat a magánvádló képviseli.

(4) Próbára bocsátás esetén a próbaidő tartama és a jóvátételi munka tartama az elévülés határidejébe nem számít be.

bb. Amnesty and Pardon

4

[Excerpt Criminal Code Hungary]

Expungement by pardon

Section 104[91]

(1) A convict may be granted expungement by pardon by the person vested with the power to grant pardons even if an expungement may not be granted under this Act.

(2) The person granted expungement by pardon shall be considered a person without a criminal record with regard to any adverse legal consequence beyond criminal law.

[Excerpt Criminal Code of Procedure Hungary]

Chapter CX Pardon in a criminal proceeding

Instituting a pardon proceeding

Section 858

(1) A pardon proceeding for terminating a criminal proceeding shall be conducted pursuant to the provisions laid down in this Chapter. (2) A pardon proceeding for terminating a criminal proceeding may be instituted upon request or ex officio.

(3) A petition for pardon may be filed by a defendant, defence counsel, statutory representative of a defendant, or a relative of a defendant.

(4) A petition for pardon shall be filed in writing with the court or prosecution office before which the criminal proceeding is pending.

(5) A pardon proceeding may be instituted ex officio by the court or prosecution office acting in the criminal proceeding by way of a pardon initiative.

(6) In the case of a pardon initiative, or if a plea for pardon is filed by a person other than the defendant, the proceeding court or prosecution office shall obtain a statement from the defendant as to whether he consents to a pardon proceeding. If the defendant concerned refuses his consent, the pardon proceeding may not be conducted.

Pardon proceeding

Section 859

(1) A pardon proceeding shall not have a suspensory effect on a criminal proceeding.

(2) In a pardon proceeding, a court or prosecution office shall obtain data and documents concerning a defendant, in line with the provisions laid down in this Act concerning data requests, that are necessary for conducting a pardon proceeding and assessing a plea for pardon or a pardon initiative.

(3) For the purpose specified in paragraph (2), the proceeding court or prosecution office may obtain the following in particular: a) a social environment assessment regarding the

[91] A kegyelmi mentesítés
104. § (1) A kegyelmi jogkör gyakorlója az elítéltet kegyelemből mentesítésben részesítheti akkor is, ha e törvény szerint ennek egyébként nincs helye.
(2) A kegyelmi mentesítésben részesített személy a büntetőjogon kívüli hátrányos jogkövetkezmények szempontjából büntetlen előéletűnek tekintendő.

defendant, b) an evaluation opinion from the penal institution holding the defendant, if he is detained, or c) a police report on public data concerning the lifestyle of the defendant.
(3a) The social environment assessment shall be prepared by the probation officer. (4) A plea for pardon or a pardon initiative, all or some of the case documents, and the data and documents obtained for the purpose specified in paragraph (2), shall be sent by the a) proceeding prosecution office, before the indictment, to the Prosecutor General, b) proceeding court, after the indictment, to the Minister responsible for justice within eight days after they are obtained.

Section 860
(1) The Prosecutor General or Minister responsible for justice shall examine the plea for pardon or the pardon initiative, and the data and documents received, and he may request data for the purpose specified in section 859 (2), if necessary, pursuant to the provisions on data requests. In that event, the provisions laid down in sections 263 and 264 shall apply to a data request accordingly.

cc. Abatement of action (dispense with prosecution)

The rules on dispense with prosecution are frequently used and they are enshrined in the Hungarian CPC. **5**

dd. Ne bis in idem principle

The *ne bis in idem* principle must be observed as well in the area of sanctions. This is a limitation to prosecution. Sanctions may derive from tax, customs and criminal law in general. Hungarian courts must take into account decisions taken by other courts in the EU. Domestic Regulations regulate on this matter.[92] **6**

[92] See Tibor 2022, A Költségvetési Bevételek Büntetőjogi Védelme És An-Nak Kihívásai Magyarországon A Xxi. Században, pp. 202–214.

7

Fundamental Law

Article XXVIII[93]

(1) Everyone shall have the right to have any charge against him or her, or his or her rights and obligations in any litigation, adjudicated within a reasonable time in a fair and public trial by an independent and impartial court established by an Act.

(2) *No one shall be considered guilty until his or her criminal liability has been established by the final and binding decision of a court.*

(3) [...]

b) General Provision from the CPC

8 The CPC states in this regard that the following situations are obstacles to criminal procedures:

[93] XXVIII. cikk

(1) Mindenkinek joga van ahhoz, hogy az ellene emelt bármely vádat vagy valamely perben a jogait és kötelezettségeit törvény által felállított, független és pártatlan bíróság tisztességes és nyilvános tárgyaláson, ésszerű határidőn belül bírálja el.

(2) Senki nem tekinthető bűnösnek mindaddig, amíg büntetőjogi felelősségét a bíróság jogerős határozata nem állapította meg.

(3) A büntetőeljárás alá vont személynek az eljárás minden szakaszában joga van a védelemhez. A védő nem vonható felelősségre a védelem ellátása során kifejtett véleménye miatt.

(4) Senki nem nyilvánítható bűnösnek, és nem sújtható büntetéssel olyan cselekmény miatt, amely az elkövetés idején a magyar jog vagy – nemzetközi szerződés, illetve az Európai Unió jogi aktusa által meghatározott körben – más állam joga szerint nem volt bűncselekmény.

(5) A (4) bekezdés nem zárja ki valamely személy büntetőeljárás alá vonását és elítélését olyan cselekményért, amely elkövetése idején a nemzetközi jog általánosan elismert szabályai szerint bűncselekmény volt.

(6) A jogorvoslat törvényben meghatározott rendkívüli esetei kivételével senki nem vonható büntetőeljárás alá, és nem ítélhető el olyan bűncselekményért, amely miatt Magyarországon vagy – nemzetközi szerződés, illetve az Európai Unió jogi aktusa által meghatározott körben – más államban törvénynek megfelelően már jogerősen felmentették vagy elítélték.

(7) Mindenkinek joga van ahhoz, hogy jogorvoslattal éljen az olyan bírósági, hatósági és más közigazgatási döntés ellen, amely a jogát vagy jogos érdekét sérti.

The basis and obstacles of the criminal procedure
Section 4[94]
(1) The prosecutor's office and the investigative authority initiate criminal proceedings ex officio for a crime to be prosecuted.
(2) The court – unless this law provides otherwise – acts on a motion.
(3) Criminal proceedings may not be instituted, or the initiated criminal proceedings must be terminated, if the perpetrator's act has already been judged with the force of law, except in the case of extraordinary legal remedy procedures and some special procedures.
(4) Subsection (3) shall be applied even if one act of the perpetrator commits several crimes, but the court – in accordance with the classification according to the indictment – does not find the defendant guilty of all the crimes that can be established according to the facts of the indictment.
(5) Criminal proceedings may not be instituted against the person whose responsibility has been established in an infringement procedure under the same circumstances – before the prosecutor's summons, review or retrial procedure according to the law on infringements has been carried out.

[94] 4. § A büntetőeljárás alapja és akadályai
(1) Az ügyészség és a nyomozó hatóság a tudomására jutott közvádra üldözendő bűncselekmény miatt hivatalból megindítja a büntetőeljárást.
(2) A bíróság – ha e törvény eltérően nem rendelkezik – indítványra jár el.
(3) Büntetőeljárás nem indítható, illetve a megindult büntetőeljárást meg kell szüntetni, ha az elkövető cselekményét már jogerősen elbírálták, kivéve a rendkívüli jogorvoslati eljárások és egyes különleges eljárások esetét.
(4) A (3) bekezdést kell alkalmazni akkor is, ha az elkövető egy cselekménye több bűncselekményt valósít meg, a bíróság azonban – a vád szerinti minősítésnek megfelelően – nem a vádirati tényállás szerint megállapítható valamennyi bűncselekmény miatt állapítja meg a terhelt bűnösségét.
(5) Azzal szemben, akinek a felelősségét szabálysértési eljárásban megállapították, azonos tényállás mellett büntetőeljárás – a szabálysértésekről szóló törvény szerinti ügyészi felhívás, felülvizsgálat vagy perújítási eljárás lefolytatása előtt – nem indítható.
(6) Törvény határozza meg azokat a további okokat, amelyek fennállása esetén büntetőeljárást nem lehet indítani, a már megindult büntetőeljárást meg kell szüntetni vagy felmentő ítéletet kell hozni.
(7) Büntetőeljárás nem indítható, illetve a megindult büntetőeljárást meg kell szüntetni, ha az elkövető cselekményét az Európai Unió tagállamában (a továbbiakban: tagállam) jogerősen elbírálták, vagy egy tagállamban a cselekmény érdeméről olyan határozatot hoztak, amely azonos cselekmény vonatkozásában – a határozatot hozó tagállam joga alapján – akadályát képezi újabb büntetőeljárás megindításának, vagy annak, hogy a büntetőeljárást hivatalból vagy rendes jogorvoslat alapján tovább folytassák.
(7a) Ha az elkövető több vagy tartós cselekménye egy bűncselekményt valósít meg, vagy több bűncselekménye a Büntető Törvénykönyvről szóló 2012. évi C. törvény (a továbbiakban: Btk.) rendelkezése alapján egy bűncselekményt valósít meg, a (7) bekezdés nem akadálya az olyan cselekmény miatt a büntetőeljárás megindításának és lefolytatásának, amelyet a (7) bekezdésben meghatározott tagállami határozatban szereplő tényállás nem tartalmaz.
(8) A (7) bekezdés nem akadálya a büntetőeljárás megindításának és lefolytatásának, ha
a) a tagállam bírósága által hozott jogerős ítélet (a továbbiakban: tagállami ítélet) nem vehető figyelembe, vagy
b) a cselekményt egészében Magyarország területén követték el, kivéve, ha az elkövető elítélése esetén a tagállami ítélettel kiszabott büntetést végrehajtották, annak végrehajtása folyamatban van, vagy a jogerős ítéletet hozó tagállam joga szerint az nem hajtható végre.
(9) A (8) bekezdésben meghatározott esetben a büntetőeljárás megindításáról a legfőbb ügyész dönt. Az így lefolytatott eljárásban történt elítélés esetén a külföldön végrehajtott büntetést, intézkedést vagy személyi szabadságot érintő kényszerintézkedést a magyar bíróság által kiszabott büntetésbe vagy intézkedésbe be kell számítani.

(6) The law defines the additional reasons for which criminal proceedings cannot be initiated, criminal proceedings that have already been initiated must be terminated or an acquittal must be rendered.
(7) Criminal proceedings may not be initiated, or the initiated criminal proceedings must be terminated, if the perpetrator's act has been adjudicated in a member state of the European Union (hereinafter: member state), or a decision has been made on the merits of the act in a member state which, in relation to the same act – the decision based on the law of the issuing Member State – constitutes an obstacle to the initiation of new criminal proceedings, or to the continuation of the criminal proceedings ex officio or on the basis of ordinary legal remedies.
(7a) If several or persistent acts of the offender constitute one crime, or several crimes constitute one crime based on the provisions of Act C of 2012 on the Criminal Code (hereinafter: Penal Code), paragraph (7) is not an obstacle the initiation and conduct of criminal proceedings for an act which is not included in the facts of the Member State decision defined in paragraph (7).
(8) Paragraph (7) does not prevent the initiation and conduct of criminal proceedings if
a) a final judgment rendered by the court of the Member State (hereinafter: Member State judgment) cannot be taken into account, or
b) the act was committed entirely within the territory of Hungary, unless the punishment imposed by the judgment of the Member State has been carried out in the case of conviction of the perpetrator, its execution is in progress, or it cannot be carried out according to the law of the Member State that issued the final judgment.
(9) In the case specified in paragraph (8), the chief prosecutor decides on the initiation of criminal proceedings. In case of a conviction in the procedure carried out in this way, the penalty, measure or coercive measure affecting personal freedom carried out abroad must be included in the penalty or measure imposed by the Hungarian court.

c) Urgent measures of national authorities for securing an investigation and prosecution

9 See below → "Conducting a PIF investigation in Hungary". There might be special regulations in the CPC for the different areas and authorities, such as:

Chapter XLII The relationship between secret information gathering and criminal proceedings
Section 256
(1) If the criminal proceeding is instituted on the basis of data acquired by secret information gathering under the Act on the prosecution service, the Act on the police, the Act on the National Tax and Customs Administration, or the Act on national security services, any covert means shall be applied in compliance with this Act after the criminal proceeding is instituted.
(2) At the time of instituting a criminal proceeding, the use of covert means subject to permission of a judge or a prosecutor shall be permitted under this Act, even if secret

information gathering subject to permission of a judge, an external person or entity, or a prosecutor was conducted earlier.

An urgent measure might be a search. It is typical that law enforcement can conduct searches without a court order in certain exceptional circumstances (e.g., preventing the **destruction of evidence**), Article 181. A judge or prosecutor must be informed as soon as possible. **10**

If the suspect poses a **risk of flight**, or if there is a significant risk of the evidence being tampered with, national authorities may request that the individual be placed in preventive custody. This measure is taken to ensure that the suspect will appear at trial and does not obstruct the investigation. **11**

In some urgent cases, law enforcement can request the authorization of wiretapping or electronic surveillance of suspects to collect evidence. This measure requires judicial authorization and is limited to cases with **serious criminal offenses** (e.g., organized crime, terrorism, large-scale corruption, see below → Art. 30). **12**

Under Hungarian law it is possible that in situations where a suspect or individual might attempt to obstruct the investigation or pose a flight risk, national authorities can impose **restrictions** on the individual's movements (e.g., house arrest). Further possibilities might be drawn from the research below, which focuses on investigative measures. **13**

3. Conducting the investigation (in Hungarian PIF cases)

The next part explores again a hypothetical scenario for Art. 28 EPPO Regulation but nevertheless presents the current legal situation concerning the conduction of investigations:

Art. 28 Conducting the Investigation

1. The European Delegated Prosecutor handling a case may, in accordance with this Regulation and with national law, either undertake the investigation measures and other measures on his/her own or instruct the competent authorities in his/her Member State. Those authorities shall, in accordance with national law, ensure that all instructions are followed and undertake the measures assigned to them. The handling European Delegated Prosecutor shall report through the case management system to the competent European Prosecutor and to the Permanent Chamber any significant developments in the case, in accordance with the rules laid down in the internal rules of procedure of the EPPO.

2. At any time during the investigations conducted by the EPPO, the competent national authorities shall take urgent measures in accordance with national law necessary to ensure effective investigations even where not specifically acting under an instruction given by the handling European Delegated Prosecutor. The national authorities shall without undue delay inform the handling European Delegated Prosecutor of the urgent measures they have taken.

3. The competent Permanent Chamber may, on proposal of the supervising European Prosecutor decide to reallocate a case to another European Delegated Prosecutor in the same Member State when the handling European Delegated Prosecutor:

(a) cannot perform the investigation or prosecution; or

(b) fails to follow the instructions of the competent Permanent Chamber or the European Prosecutor.

4. In exceptional cases, after having obtained the approval of the competent Permanent Chamber, the supervising European Prosecutor may take a reasoned decision to conduct the investigation personally, either by undertaking personally the investigation measures and other measures or by instructing the competent authorities in his/her Member State, where this appears to be indispensable in the interest of the efficiency to the investigation or prosecution by reasons of one or more of the following criteria:
(a) the seriousness of the offence, in particular in view of its possible repercussions at Union level;
(b) when the investigation concerns officials or other servants of the Union or members of the institutions of the Union;
(c) in the event of failure of the reallocation mechanism provided for in paragraph 3.
In such exceptional circumstances Member States shall ensure that the European Prosecutor is entitled to order or request investigative measures and other measures and that he/she has all the powers, responsibilities and obligations of a European Delegated Prosecutor in accordance with this Regulation and national law.
The competent national authorities and the European Delegated Prosecutors concerned by the case shall be informed without undue delay of the decision taken under this paragraph.

The conduct of fraud and corruption investigations is dependent on instruction relationships, whereby the dependency in classically national systems, in the area of EU anti-fraud investigations the EPPO (i.e. the college level) has supervisory powers as it is a supranational, independent body. **1**

- Hungary is not part of the EPPO at the moment. Therefore the national police and special forces conduct investigations only on behalf of fully national prosecution offices. These offices conduct e.g. investigations into budget fraud.
- If the EPPO existed, the EDPs of Hungary would be vested with the same powers as their national homologues and they would have the power to assign tasks to the national police and specia l foces (see below Art. 30 EPPO Regulation).
- The General Prosecution Offices may interfere and it de facto controls the prosecution offices in its area of competence. These interferences would contradict EU law if Hungary decided to participate in the enhanced cooperation one day. In Germany e.g. the relevant provision in the Court Consitutions Act has been “deactiviated” for EPPO cases in the EPPO Adoption Act (see the German compendium volume, Art. 28 EPPO Regulation).

The following explanations in italics do only apply if Hungary decides in the near future to combat EU fraud on a stronger, supranational, instead of thereotically more weak national, basis, which does not provide measures as easily as the EPPO transfers evidence from one Member State to another or request a search in a house as easily as EDPs: **2**

3 In her speech for the first anniversary of the EPPO, given at the conference "EPPO one year in action – Towards Resolving Complexity and Bringing Added Value"[95] in the Hémicylce in Luxembourg on 1st June 2022, Laura Kövesi outlined that in order to enhance the detection rates of EU fraud specialised customs units and specialised financial experts, groups of specialised EU investigators educated in the typologies of EU frauds are needed to enhance the conduct of investigations. She underlined that these special units could be set up tomorrow and that doing so depended only on political will.[96]

4 As long as there are no special units in all countries as the first Chief Prosecutor of the EPPO requested, the detection rates depend on the conduct of investigations and the cooperation with established national authorities – especially the assignment and instruction of investigative tasks to "those national authorities". The situation in the present country chapter will be analysed below, stating the cooperation level and important actions to be taken.

5 The investigations on national level and at Union-level must be distinguished. Especially at the Union level, the investigation is different than at the national level. In many cases, investigations will be carried out in Union institutions (EU IBOAs). The EPPO has started to set up working arrangements for this type of investigation. For example, the one with the European Investment Bank provides for cooperation with the in-house fraud detection service ("a kind of internal investigation commission"). In the following we shall focus on the national investigations level with regard to the present country.

6 For the different PIF offences, the specific country system provides different investigative bodies acting by virtue of different national codes such as the General Tax Code, the police laws and the customs laws including the customs administration laws. Generally speaking, it depends, for the analysis of Art. 28 EPPO Regulation, on whether a centrally governed country of the EU is affected or whether there is a federal system with differentiated competences of the federal units.

7 In addition, the lawfulness of the action is very important as a generalisation of all instructions from the staff, which are made available to the EPPO and the EDPs from the national resource area.

8 The next section can be read from today's point of view, which means that it depicts the national investigation powers e.g. police, customs and tax investigation service. It might

[95] Organised by the University of Luxembourg (Prof. Katalin Ligeti), ECLAN and the EPPO.

[96] EPPO, European Public Prosecutor's Office One Year In Action, https://www.youtube.com/watch?v=v2oUUyTEPFU; Laura Kövesi, So kommt die EU im Kampf gegen Verbrecherbanden in die Offensive, Die Welt (Welt am Sonntag), Stand: 05.06.2022: "Ich fordere deshalb alle zuständigen nationalen Behörden auf, diese bewährte Praxis zu übernehmen und zur Unterstützung unserer Ermittlungen spezialisierte Einheiten einzurichten, die Finanz-, Steuer- und Zollfahnder vereinen. Ich schlage vor, dass wir eine Elitetruppe hoch qualifizierter Finanzbetrugsermittler innerhalb der EU bilden, die über die EPPO länderübergreifend arbeitet. Dafür muss man kein Gesetz ändern; es ist eine reine Organisationsentscheidung der zuständigen nationalen Behörden. Es kann schon morgen geschehen." This statements was republished by various newspapers and journals across Europe (see eg Figaro article in the French country chapter).

as well be read in case that the EPPO welcomes Hungary as a full partner instead of only an associated Member by virtue of Art. 104, 105 EPPO Regulation.

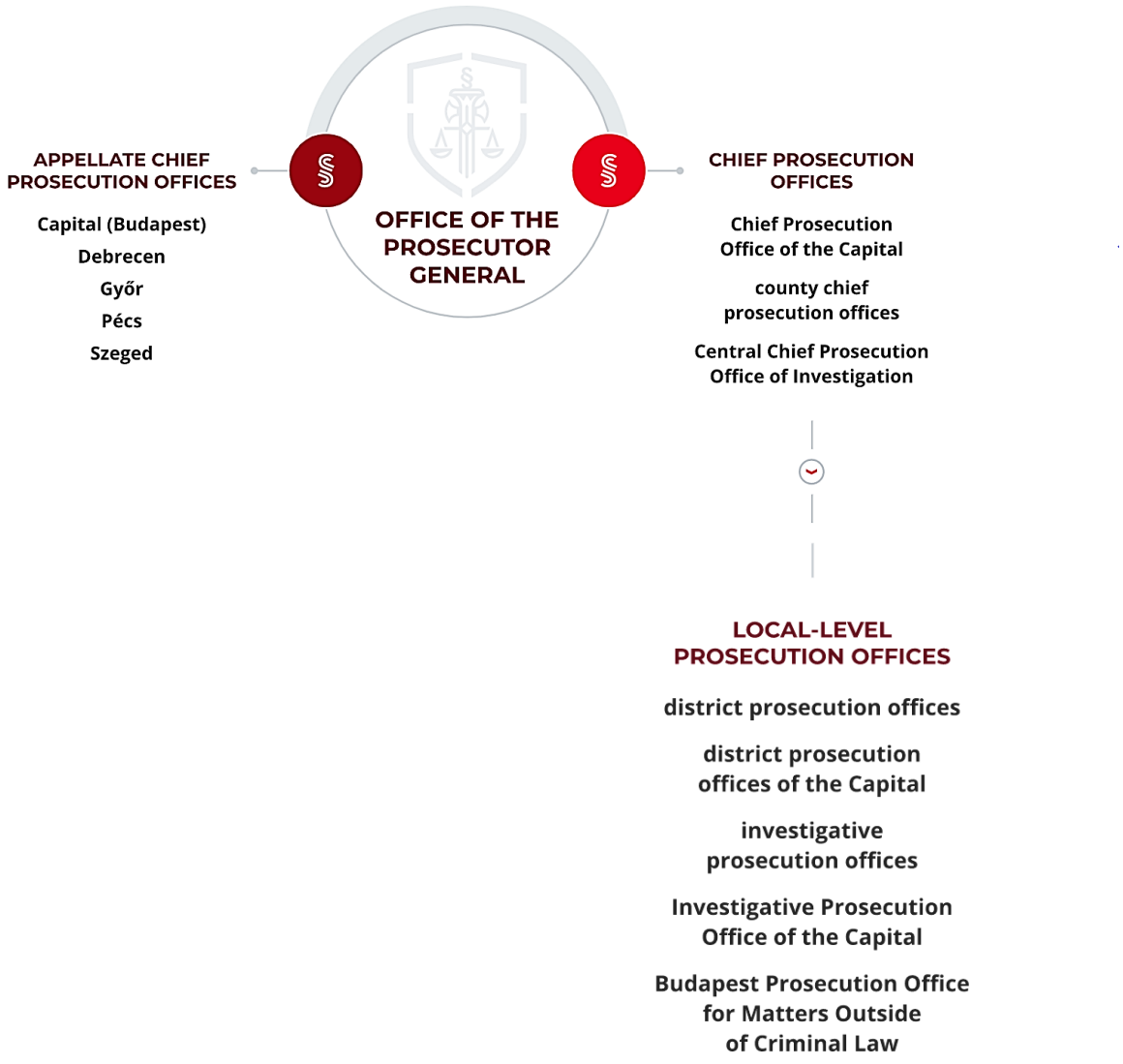
a) Hungarian prosecutors/The handling EDP carrying out the investigative measures, para 1

At the moment Hungary has no handling EDPs. Thus, the Hungarian national prosecutor carries out investigative measures. Local and chief-prosecution offices are distinguished.[97] Art. 46 of the Fundamental Law contains a fundamental Article, which applies in this regard: **9**

The Police and national security services
Article 46
(1) The core duties of the police shall be the prevention and investigation of criminal offences, and the protection of public safety, public order, and the order of state borders. The police shall participate in preventing illegal immigration.
(2) The police shall operate under the direction of the Government.
(3) The core duties of the national security services shall be the protection of the independence and lawful order of Hungary, and the promotion of its national security interests.
(4) The national security services shall operate under the direction of the Government.
(5) Professional staff members of the police and the national security services may not be members of political parties or engage in political activities.
(6) The detailed rules relating to the organisation and operation of the police and the national security services and the rules for the use of special investigative means and techniques, as well as the rules concerning national security activities, shall be laid down in a cardinal Act.

The Prosecutor General heads the structure and hierarchy of the Hungarian Public Prosecutor's Office. The appellate prosecutors also work in his office, although they are spread across several cities. The Chief Prosecution Offices are subordinate to the General Prosecutor's Office. The local offices of the public prosecutor's office are located at the lowest level, with the capital having a special office. **10**

[97] See http://ugyeszseg.hu/en/about-us/tasks/. Accessed 31 December 2024.



Source: See http://ugyeszseg.hu/en/about-us/structure/. Accessed 31 December 2024.

b) Instructions and assignment of investigative measures

The next pertinent issue is to determine who is conducting the investigation from the beginning. A differentiation is made among various authorities, with the police and their units and departments being of particular importance. Tax and customs authorities are also responsible. **11**

List 1: Major national investigation authorities

	National authorities
	Hungarian national tax and customs authority (NAV)
	Hungarian Financial Intelligence Service

aa. Criminal and judicial police area

It is important to know the legal basis of the legal entitlements of the investigating authorities, because the role of the Hungarian police in fraud investigations is based on their powers: **12**

Police Investigation Authorities

	Applicable Law
	The Hungarian Police Act and the Hungarian CPC apply. The Hungarian Police has different departements and a special investigation service.

bb. Tax area

The tax area is primarily controlled by the Hungarian national tax and customs authority (NAV) and its criminal department. The following statistics show that the NAV is ordering seizures frequently and herewith is capable of acting as a potential partner of a future Hungarian EDP. **13**

2015[98]	2016	2017	2018	2019	2020	2021
Ordered investigation, piece	5374	4195	3649	3373	3825	3572
Value of violations that became known, HUF billion	137	109	94	77	96	83
Property insurance*, billion HUF	31	33	43	47	89	99
Property insurance indicator	22%	31%	45%	61%	93%	119%

[98] See https://nav.gov.hu/bunugy/eredmenyeink. Accessed 31 December 2024.

*Seizure ordered in the current year + foreclosure + voluntary reimbursement made at that time

14 The organigramme shows the following structure:

Tax Investigation authorities

Name[99]	**Location**	**Jurisdiction**
Southern Great Plain Crime Directorate of NAV's Directorate General of Crime	Southern Great Plain Criminal Directorate of the National Tax and Customs Administration (Kecskemét)	Administrative area of Bács-Kiskun County, Békés County and Csongrád-Csanád County
NAV's Directorate General of Crime South Transdanubia Criminal Directorate	South Transdanubian Crime Directorate of the National Tax and Customs Administration (Pécs)	Administrative area of Baranya county, Somogy county and Tolna county
The Northern Plains Criminal Directorate of NAV's Directorate General of Crime	National Tax and Customs Administrations Office of the Northern Great Plain Criminal Directorate (Nyíregyháza)	Administrative area of Hajdú-Bihar county, Jász-Nagykun-Szolnok county and Szabolcs-Szatmár-Bereg county
North Hungarian Criminal Directorate of the Directorate General of Crime of NAV	Northern Hungarian Criminal Directorate of the National Tax and Customs Administration (Mouse)	Administrative area of Heves County, Borsod-Abaúj-Zemplén County, Nógrád County
Central Transdanubian Crime Directorate of the Directorate General of Crime of NAV	Central Transdanubian Criminal Directorate of the National Tax and Customs Administration (Székesfehérvár)	Administrative area of Fejér county, Komárom-Esztergom county and Veszprém county
Central Hungarian Criminal Directorate of the Directorate General of Crime of NAV	Central Hungarian Criminal Directorate of the National Tax and Customs Administration (Budapest)	Administrative area of Budapest and Pest counties

[99] See https://nav.gov.hu/bunugy/e-papir. Accessed 31 January 2025.

NAV Transdanubian Crime Directorate of the General Directorate of Crime	West Transdanubian Criminal Directorate of the National Tax and Customs Administration (Győr)	Administrative area of Győr-Moson-Sopron county, Vas county and Zala county
Central Investigation Department of the Directorate General of Crime of NAV	Central Investigation Department of the National Tax and Customs Administration's Directorate General of Crime (Budapest)	National

For the organigramme see here: https://nav.gov.hu/bunugy/szervezet.

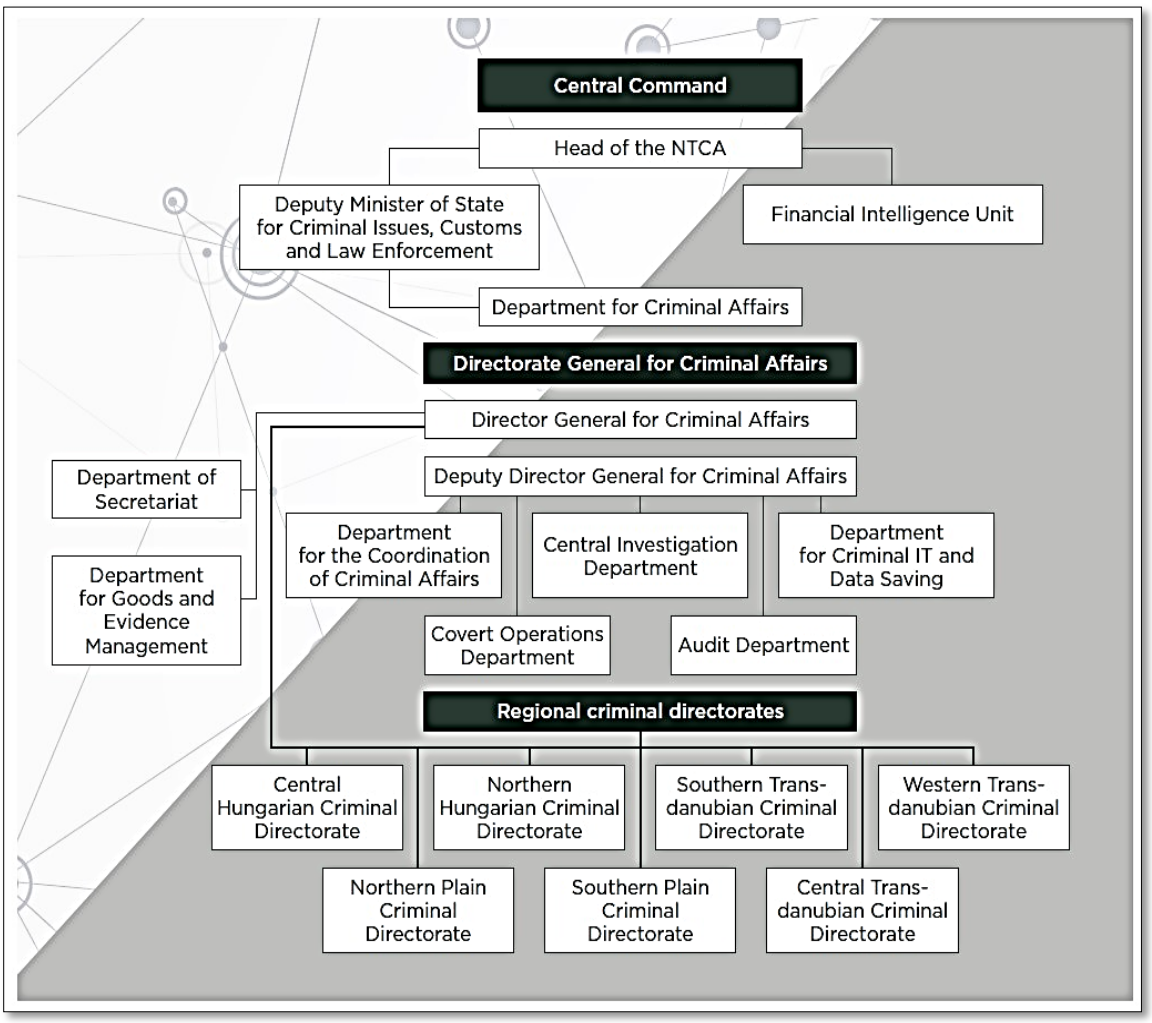
cc. Customs area

In the area of customs duties and potential offences affecting the EU's financial interests the National Tax and Customs Administration is competent to investigate cases.[100] **15**

[100] These are, according to the NTAC(see https://nav.gov.hu/en/criminal_branch_of_NTCA/legal_background_criminal_offences):
"Violation of International Economic Restrictions (Btk. 327. §),
• Failure to Report Violation of International Economic Restrictions (Btk. 328. §),
• Criminal Offenses with Military Items and Services (Btk. 329. §),
• Criminal Offenses with Dual-Use Items (Btk. 330. §),
• Plagiarism (Btk. 384. §),
• Infringement of Copyright and Certain Rights Related to Copyright (Btk. 385. §),
• Compromising the Integrity of Technical Protection (Btk. 386. §),
• Falsifying Data Related to Copyright Management (Btk. 387. §)
• Infringement of Industrial Property Rights (Btk. 388. §),
• Fraud Relating to Social Security, Social and Other Welfare Benefits (Btk. 395. §),
• Budget Fraud (Btk. 396. §),
•Omission of Oversight or Supervisory Responsibilities in Connection with Budget Fraud (Btk. 397. §)
•Conspiracy to Commit Excise Violation (Btk. 398. §),
• Breach of Accounting Regulations (Btk. 403. §),
• Fraudulent Bankruptcy (Btk. 404. §)
• Unauthorized Foreign Trade Activities (Btk. 406. §),
• Imitation of Competitors (Btk. 419. §).
Furthermore the below crimes committed in relation to the above mentioned crimes:
• Forgery of Administrative Documents (Btk. 342-343. §),
• Use of a Forged Private Document (Btk. 345. §),
• Criminal Offenses with Individual Identifiers (Btk. 347. §),
• Forgery of Stamp (Btk. 391. §),
• Money Laundering (Btk. 399-400. §)
• Failure to Comply with the Reporting Obligation Related to Money Laundering (Btk. 401. §)." A glossy brochure shows the campaigns of 2019 https://nav.gov.hu/pfile/file?path=/en/about_us/bulletin/2019_National_Tax and_Customs_Administration.

16 The Organigramme of the NTAC includes the Criminal Branch of the Service[101]:

Figure 7: NTAC Directorate of Criminal Affairs



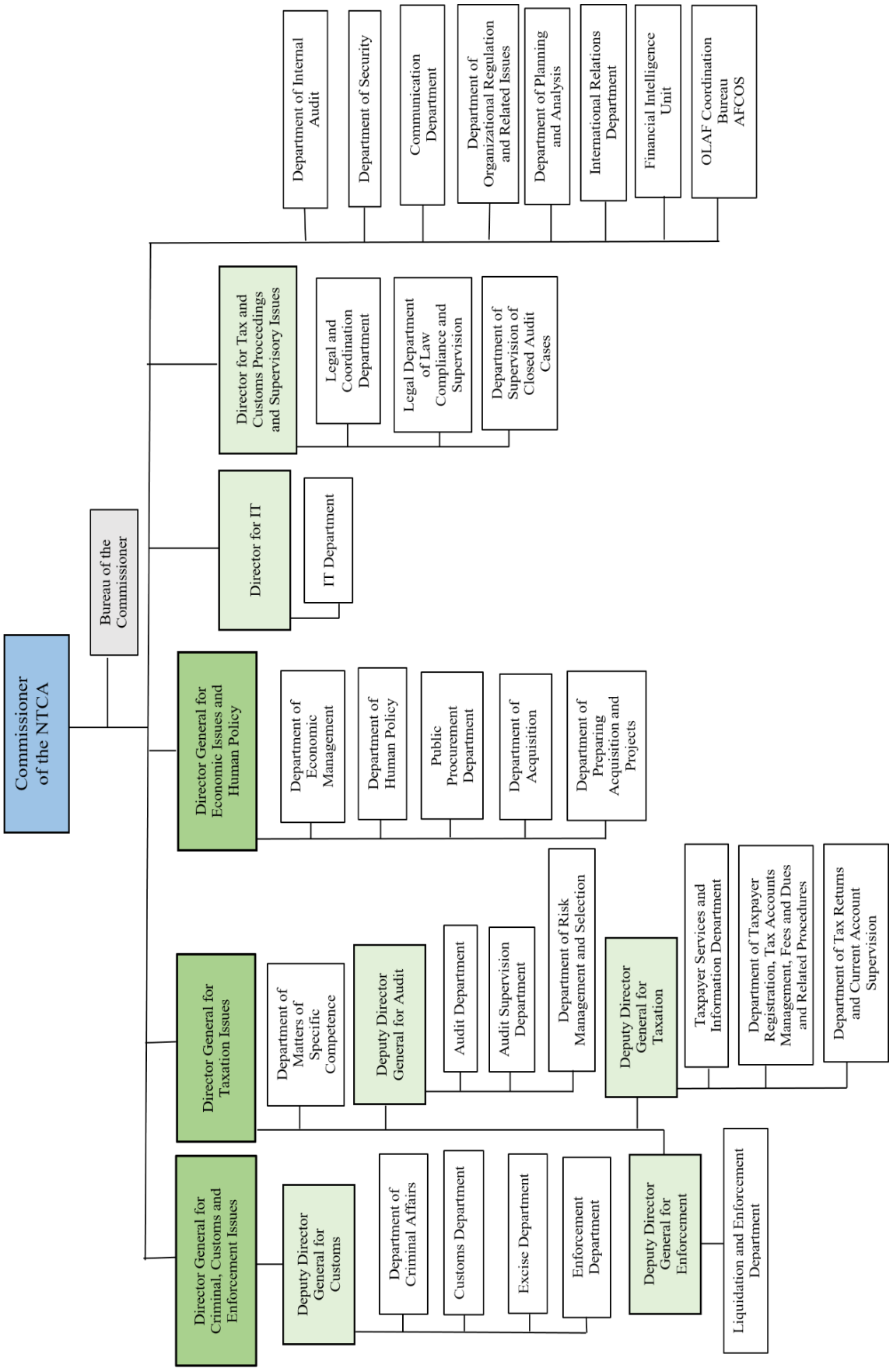
Source: https://nav.gov.hu/en/criminal_branch_of_NTCA/Criminal_Branch_Structure. Accessed 31 December 2024.

17 For the contacts of the Criminal Directorates: https://nav.gov.hu/en/criminal_branch_of_NTCA/Contact_of_the_Directorate_General_for_Crimina_Affairs.

18 See as well for the legal background: https://nav.gov.hu/en/criminal_branch_of_NTCA/legal_background_criminal_offences.

[101] See https://nav.gov.hu/en/criminal_branch_of_NTCA/Criminal_Branch_Structure. Accessed 31 January 2025.

Figure 8: NTCA Management and Organisation



Source: NTCA: https://nav.gov.hu/en/about_us/management. Accessed 31 December 2024.

dd. The Hungarian Financial Intelligence Service

19 The main competence of the Hungarian Financial Intelligence Service is the fight against money laundering. If money laundering involves money obtained through PIF offences, the FIU Hungary might be competent to deal with these cases.[102] The annual Reports give an overview of the tasks and the intensity and effectiveness of the authority.[103] The following laws regulate the actions and tasks and apply if the FIU Hungary is competent:

- "LIII of 2017 Law on the prevention and prevention of money laundering and terrorist financing. law (Pmt.)[104]
- LII Law of 2017 on the implementation of financial and property restrictive measures ordered by the European Union, as well as related amendments to certain laws. law (Ex.)[105]
- XLIII of 2021 Law on the creation and operation of the data provision background related to the identification task of financial and other service providers."[106]

c) Ensuring compliance with national law

20 The higher prosecution offices determine the strategy and the compliance with national law by ensuring that the investigation measures are comparable to the jurisprudence of the highest court in criminal matters.

d) Urgent measures in accordance with national law necessary to ensure effective investigations

21 See below → *"Conducting a PIF investigation in Hungary (Art. 30 EPPO Regulation)"*. There might be special regulations in the CPC for the different areas and authorities, such as:

Chapter XLII The Relationship Between Secret Information Gathering and Criminal Proceedings
Section 256
(1) If the criminal proceeding is instituted on the basis of data acquired by secret information gathering under the Act on the prosecution service, the Act on the police, the Act on the National Tax and Customs Administration, or the Act on national security services, any covert means shall be applied in compliance with this Act after the criminal proceeding is instituted.

[102] See https://pei.nav.gov.hu/. Accessed 31 January 2025.
[103] Pénzmosás és Terrorizmusfinanszírozás Elleni Iroda 2019, see https://api-pei.nav.gov.hu/file/private/files/37.
[104] A pénzmosás és a terrorizmus finanszírozása megelőzéséről és megakadályozásáról szóló 2017. évi LIII. törvény (Pmt.).
[105] Az Európai Unió által elrendelt pénzügyi és vagyoni korlátozó intézkedések végrehajtásáról, valamint ehhez kapcsolódóan egyes törvények módosításáról szóló 2017. évi LII. törvény (Kit.).
[106] A pénzügyi és egyéb szolgáltatók azonosítási feladatához kapcsolódó adatszolgáltatási háttér megteremtéséről és működtetéséről szóló 2021. évi XLIII. Törvény.

(2) At the time of instituting a criminal proceeding, the use of covert means subject to permission of a judge or a prosecutor shall be permitted under this Act, even if secret information gathering subject to permission of a judge, an external person or entity, or a prosecutor was conducted earlier.

4. Lifting privileges or immunities (in PIF cases) – Hypothetical considerations

Art. 29 Lifting privileges or immunities

1. Where the investigations of the EPPO involve persons protected by a privilege or immunity under national law, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting in accordance with the procedures laid down by that national law.

2. Where the investigations of the EPPO involve persons protected by privileges or immunities under the Union law, in particular the Protocol on the privileges and immunities of the European Union, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting in accordance with the procedures laid down by Union law.

a) Parliamentary privilege or immunity

1

[Excerpt Fundamental Law]

Article 4[107]

(1) Members of te National Assembly shall have equal rights and obligations; they shall perform their activities in the public interest, and they shall not be given instructions in that respect.

(2) Members of the National Assembly shall be entitled to immunity and to remuneration ensuring their independence. A cardinal Act shall specify the public offices which

[107] 4. cikk
(1) Az országgyűlési képviselők jogai és kötelezettségei egyenlők, tevékenységüket a köz érdekében végzik, e tekintetben nem utasíthatók.
(2) Az országgyűlési képviselőt mentelmi jog és a függetlenségét biztosító javadalmazás illeti meg. Sarkalatos törvény meghatározza azokat a közhivatalokat, amelyeket országgyűlési képviselő nem tölthet be, valamint más összeférhetetlenségi eseteket is megállapíthat.
(3) Az országgyűlési képviselő megbízatása megszűnik
a) az Országgyűlés megbízatásának megszűnésével;
b) halálával;
c) összeférhetetlenség kimondásával;
d) lemondásával;
e) ha a megválasztásához szükséges feltételek már nem állnak fenn;
f) ha egy éven keresztül nem vesz részt az Országgyűlés munkájában.
(4) Az országgyűlési képviselő megválasztásához szükséges feltételek hiányának megállapításáról, az összeférhetetlenség kimondásáról, valamint annak megállapításáról, hogy az országgyűlési képviselő egy éven keresztül nem vett részt az Országgyűlés munkájában, az Országgyűlés a jelen lévő országgyűlési képviselők kétharmadának szavazatával határoz.
(5) Az országgyűlési képviselők jogállására és javadalmazására vonatkozó részletes szabályokat sarkalatos törvény határozza meg

may not be held by Members of the National Assembly, and may lay down other cases of incompatibility or conflict of interest.
(3) The mandate of a Member of the National Assembly shall terminate: a) upon the termination of the mandate of the National Assembly; b) upon his or her death; c) upon the declaration of incompatibility or a conflict of interest; d) upon his or her resignation; e) if the conditions required for his or her election no longer exist; f) if he or she has failed to participate in the National Assembly's work for one year.
(4) The National Assembly shall decide, with the votes of two thirds of the Members of the National Assembly present, on the establishment of the absence of the conditions required for the election of a Member of the National Assembly, on the declaration of incompatibility or a conflict of interest, as well as on the establishment of a Member of the National Assembly's failure to participate in the National Assembly's work for one year.
(5) The detailed rules relating to the legal status and the remuneration of Members of the National Assembly shall be laid down in a cardinal Act.

b) Specific Legislation

2

Article 13 of the Fundamental Law shall be considered:

Article 13 Fundamental Law[108]
(1) Criminal proceedings against the President of the Republic may be instituted only after the termination of his or her mandate.
(2) If the President of the Republic intentionally violates the Fundamental Law or, in connection with performing his or her office, any Act, and if he or she commits an intentional criminal offence, one fifth of the Members of the National Assembly may propose his or her removal from office.
(3) For the impeachment procedure to be instituted, the votes of two thirds of the Members of the National Assembly shall be required. Voting shall be held by secret ballot.
(4) Starting from the adoption of the decision by the National Assembly, the President of the Republic may not exercise his or her powers until the impeachment procedure is concluded.

[108] 13. Cikk Magyarország Alaptörvénye
(1) A köztársasági elnök ellen büntetőeljárást csak megbízatásának megszűnése után lehet indítani.
(2) Az Alaptörvényt vagy tisztsége gyakorlásával összefüggésben valamely törvényt szándékosan megsértő, illetve a szándékos bűncselekményt elkövető köztársasági elnökkel szemben az országgyűlési képviselők egyötöde indítványozhatja a tisztségtől való megfosztást.
(3) A megfosztási eljárás megindításához az országgyűlési képviselők kétharmadának szavazata szükséges. A szavazás titkos.
(4) Az Országgyűlés határozatának meghozatalától kezdődően a megfosztási eljárás befejezéséig a köztársasági elnök nem gyakorolhatja hatásköreit.
(5) A megfosztási eljárás lefolytatása az Alkotmánybíróság hatáskörébe tartozik.
(6) Ha az Alkotmánybíróság az eljárás eredményeként a köztársasági elnök közjogi felelősségét megállapítja, a köztársasági elnököt tisztségétől megfoszthatja.

(5) The Constitutional Court shall have the power to conduct the impeachment procedure.
(6) If, as a result of the procedure, the Constitutional Court establishes the responsibility of the President of the Republic under public law, it may remove the President of the Republic from office.

c) Provisions on the lifting of immunities?

Nota bene: Union law differs from national law and is not researched here in-depth. In this particular area, special legal questions might arise. Under Union law the following situation evolves:

3 The protocol, which is mentioned below will apply if the immunity or a privilege of a Union official needs to be lifted. Cf. → Art. 29 EPPO-RG and the subsequent analysis (in other volumes III, V, XXII). Union law differs from national law and is not researched within this volume. Union law contains a protocol, which will apply if the immunity or a privilege of a Union official needs to be lifted. It is enshrined in the consolidated version of the Treaty on the Functioning of the European Union Protocol (No 7) on the privileges and immunities of the European Union (OJ C 326, 26.10.2012, p. 266–272).

4 Under Article 29, the EPPO can request the lifting of immunities when it presents an obstacle to an investigation. The EPPO must submit a reasoned written request to the relevant authority: the President of the European Parliament for Members of the EP (Article 5) or the Secretary-General of the EP for EP staff (see → Article 6 WA). In certain situations, the EPPO may be exempt from informing the individual whose immunity is being waived, provided that the request includes the grounds for not hearing the person (Article 6).[109]

5 For officials of the European Investment Bank (EIB), the request is directed to the EIB's contact point as outlined in Article 23 of the Working Arrangement between the EPPO and the EIB. The EPPO must use the specified templates provided in the annexes to ensure the submission is complete and in line with the procedures set out (Annexes 1 and 3).[110] These templates help maintain clarity and confidentiality in the process.

6 In *Case C-831/18 P* the ECJ emphasizes that the person whose immunity is being waived must be heard, except in exceptional cases where this may interfere with the investigation. This is significant for safeguarding the individual's rights while maintaining the effectiveness of legal processes.[111]

[109] European Parliament (2023). Working Arrangement of the European Parliament and the EPPO. Available at: https://www.europarl.europa.eu/resources/library/media/20241128RES25671/20241128RES25671.pdf. Accessed 1 February 2025.
[110] European Investment Bank (2021). Working Arrangement between the European Investment Bank and the EPPO. https://www.eib.org/attachments/press/working-arrangement-eppo-eib-eif-7-december-2021. Accessed 1 February 2025.
[111] ECJ, Case C-831/18 P, *European Commission v RQ*, Judgment of 19 December 2019.

II. National Law applicable in PIF Acquis Investigations

The next part explores **investigation measures** in Hungary. Tax fraud and VAT fraud often involve highly sophisticated methods, including falsified electronic invoices, shell companies, and cross-border financial transactions. 1

As **most tax** and **VAT fraud schemes** are executed digitally, involving: manipulation of financial systems, fraudulent electronic invoices or documentation and digital communication between conspirators, electronic search measures become more and more important. 2

Another reason to point out digital investigation measures is that **nowadays** fraudsters often use **encrypted systems** (EncroChat etc.), hidden servers, or remote networks to obscure evidence of illegal activities. Considering this, electronic search enables access to these concealed data sources, helping trace illicit transactions, identify accomplices, and reconstruct the financial trail. Section 205 CPC defines **electronic data** broadly, encompassing all forms of digitally stored information, including the software enabling financial systems. 3

Under ss. 232 and 233, Hungarian prosecutors, in collaboration with investigative organs, can undertake the actions with **judicial authorization** such as access and record Data in information systems (s. 232 para 1), secret search of premises (s. 232 para 2) too install spyware and the pacement of technical means or data. Such electronic serarches can offer insights and new investigation trails as they might expose the digital links between fictitious companies. If e.g. a Hungarian company falsely claims **VAT refunds** on non-existent exports using forged invoices submitted electronically investigators could come to the idea to access the suspect's computers and **uncover falsified invoices** stored in cloud systems (s. 232 para 1). Further investigation measures are analysed below and collected the relevant law and its conditions: 4

1. Investigation measures in PIF cases (equal to Article 30 EPPO Regulation)

Art. 30 Investigation measures and other measures

1. At least in cases where the offence subject to the investigation is punishable by a maximum penalty of at least 4 years of imprisonment, Member States shall ensure that the European Delegated Prosecutors are entitled to order or request the following investigation measures:

(a) search any premises, land, means of transport, private home, clothes and any other personal property or computer system, and take any conservatory measures necessary to preserve their integrity or to avoid the loss or contamination of evidence;

(b) obtain the production of any relevant object or document either in its original form or in some other specified form;

(c) obtain the production of stored computer data, encrypted or decrypted, either in their original form or in some other specified form, including banking account data and traffic data with the exception of data specifically retained in accordance with national law pursuant to the second sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council;
(d) freeze instrumentalities or proceeds of crime, including assets, that are expected to be subject to confiscation by the trial court, where there is reason to believe that the owner, possessor or controller of those instrumentalities or proceeds will seek to frustrate the judgement ordering confiscation.
(e) intercept electronic communications to and from the suspect or accused person, over any electronic communication means that the suspect or accused person is using;
(f) track and trace an object by technical means, including controlled deliveries of goods.
2. Without prejudice to Article 29, the investigation measures set out in paragraph 1 of this Article may be subject to conditions in accordance with the applicable national law if the national law contains specific restrictions that apply with regard to certain categories of persons or professionals who are legally bound by an obligation of confidentiality.
3. The investigation measures set out in points(c), (e) and (f) of paragraph 1 of this Article may be subject to further conditions, including limitations, provided for in the applicable national law. In particular, Member States may limit the application of points (e) and (f) of paragraph 1 of this Article to specific serious offences. A Member State intending to make use of such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with Article 117.
4. The European Delegated Prosecutors shall be entitled to request or to order any other measures in their Member State that are available to prosecutors under national law in similar national cases, in addition to the measures referred to in paragraph 1.
5. The European Delegated Prosecutors may only order the measures referred to in paragraphs 1 and 4 where there are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation, and where there is no less intrusive measure available which could achieve the same objective. The procedures and the modalities for taking the measures shall be governed by the applicable national law.

Now it shall be answered what kind of possibilities are there to uncover and investigate EU fraud in Hungary. The measures include intrusive and effective means of investigative tools. If conducting the investigations it is important to closely obey the law in order to be proportionate and ensure the admissibility of evidence. **1**

a) Member States shall ensure that the European Delegated Prosecutors are entitled to order or request

2 At this moment Hungary is not part of the EPPO and has therefore not adopted any law that would grant national prosecutors the rights of an EDP.

b) The role of the Hungarian Investigating Judge during the conduct of an investigation

3 The judge has the task to grant permission to certain acts which are considered intrusive investigation measures. If the permission was granted and the secret measures could be used, the question arises if this evidence may be used in court. This is determined by s. 252 CPC et seq. (Chapter XLI Using covert means). The following rules regarding the obtainment of a permission to use these measures:

Chapter XXXVIII Covert means subject to permission of a judge
Section 231[112]
In a criminal proceeding, the following covert means may be used subject to permission of a judge:
a) secret surveillance of an information system,
b) secret search,
c) secret surveillance of a locality,
d) secret interception of a consignment,
e) interception of communications

Granting permission to use covert means subject to permission of a judge
Section 235[113]
(1) Covert means that are subject to permission of a judge may be used on the basis of, and within the limits specified in, a permission granted by a court. (2) The covert means subject to the permission of a judge that may be used against the person concerned shall be specified in the court's permission. (3) The court may a) extend the period of its

[112] XXXVIII. FejezetBÍRÓI ENGEDÉLYHEZ KÖTÖTT LEPLEZETT ESZKÖZÖK
231. § A büntetőeljárásban a következő bírói engedélyhez kötött leplezett eszközök alkalmazhatók:
a) információs rendszer titkos megfigyelése,
b) titkos kutatás,
c) hely titkos megfigyelése,
d) küldemény titkos megismerése,
e) lehallgatás.

[113] A bírói engedélyhez kötött leplezett eszközök engedélyezése
235. § (1) A bírói engedélyhez kötött leplezett eszközök a bíróság engedélye alapján, az abban meghatározott keretek között alkalmazhatók.
(2) A bíróság engedélye meghatározza, hogy az érintett személlyel szemben mely bírói engedélyhez kötött leplezett eszköz alkalmazható.
(3) A bíróság
a) az engedélyét meghosszabbíthatja,
b) az engedélyét visszavonhatja,
c) az engedélyét további leplezett eszközre kiterjesztheti, illetve
d) a már engedélyezett leplezett eszköz további alkalmazását megtilthatja.

permission, b) withdraw its permission, c) extend the scope of its permission to other covert means, and d) prohibit any further use of a covert means already covered by a permission.

Section 236[114]

(1) The court shall decide on granting permission to use any covert means subject to permission of a judge upon a motion submitted by the prosecution service.

(2) Such a motion shall include the following:

a) the name of the organ authorised to use covert means, the date of ordering the preparatory proceeding or investigation, and the case number,

b) available data identifying the person concerned,

c) the planned date and time, indicated in days and hours, of starting and finishing the use of the covert means subject to permission of a judge against the person concerned,

d) detailed reasons confirming that the conditions of permitting the use of the covert means subject to permission of a judge are met, including the following:

da) the qualification under the Criminal Code and a short description of the facts of the criminal offence underlying the proceeding, and the data serving as a ground for suspecting, or suggesting the possibility of, a criminal offence,

db) data confirming that the conditions laid down in section 214 (5) are met, and dc) the purpose of using covert means subject to permission of a judge,

e) the designation of the covert means to be used,

f) data clearly identifying the information system subject to secret surveillance; the room, vehicle, or object subject to a secret search; the room or vehicle subject to secret surveillance of a locality; the place of posting and receipt, and the sender or recipient in case of the secret interception of a consignment; the electronic communications service or device, or information system subject to interception of communications.

[114] 236. § (1) A bírói engedélyhez kötött leplezett eszközök alkalmazásának engedélyezéséről a bíróság az ügyészség indítványa alapján határoz.

(2) Az indítványnak tartalmaznia kell

a) a leplezett eszközök alkalmazására feljogosított szerv megnevezését, az előkészítő eljárás, illetve a nyomozás elrendelésének időpontját, az ügy számát,

b) a rendelkezésre álló, az alkalmazással érintett személy azonosítására szolgáló adatokat,

c) az érintett személlyel szemben a bírói engedélyhez kötött leplezett eszközök alkalmazásának tervezett kezdő és befejező időpontját napban és órában meghatározva,

d) a bírói engedélyhez kötött leplezett eszközök alkalmazása feltételeinek fennállását megalapozó részletes indokolást, így

da) az eljárás alapjául szolgáló bűncselekmény Btk. szerinti minősítését, valamint a tényállás rövid leírását, és a bűncselekmény gyanúját megalapozó vagy az annak lehetőségére utaló adatokat,

db) a 214. § (5) bekezdésében meghatározott feltételek teljesülését megalapozó adatokat, és

dc) a bírói engedélyhez kötött leplezett eszközök alkalmazásának célját,

e) az alkalmazni kívánt leplezett eszköz megnevezését,

f) információs rendszer titkos megfigyelése esetén az információs rendszer; titkos kutatás esetén a helyiség, jármű vagy tárgy; hely titkos megfigyelése esetén a helyiség vagy jármű; küldemény titkos megismerése esetén a feladás vagy az átvétel helyének, illetve a feladó vagy a címzett; lehallgatás esetén az elektronikus hírközlési szolgáltatás vagy az eszköz, illetve az információs rendszer egyértelmű azonosítására szolgáló adatokat.

(3) Az indítványhoz csatolni kell az indítványban foglaltakat megalapozó iratokat.

(3) A motion shall be accompanied by documents serving as a ground for the content of the motion.

Section 237[115]

(1) The court shall decide within seventy-two hours after the filing of the motion. On the basis of a motion, the court shall grant a permission, in whole or in part, or dismiss the motion.

(2) A permission shall be granted by the court in part, if it permits the use of covert means subject to permission of a judge, but dismisses any part of the motion regarding the use of certain covert means in its decision.

3) If the court permits, in whole or in part, the use of covert means, it shall specify the following in its corresponding decision: a) available data identifying the person concerned, b) the date and time, indicated in days and hours, of starting and finishing the use of the covert means subject to permission of a judge, c) the relevant criminal offence and the purpose of use, indicating the qualification under the Criminal Code and a short description of the facts of the criminal offence, d) the covert means subject to permission of a judge for which permission is granted, and e) the data specified in section 236 (2) f).

[115] 237. § (1) A bíróság az indítvány benyújtásától számított hetvenkét órán belül dönt. A bíróság az indítvány alapján az engedélyt megadja, részben adja meg vagy az indítványt elutasítja.
(2) A bíróság az engedélyt részben adja meg, ha engedélyezi a bírói engedélyhez kötött leplezett eszközök alkalmazását, azonban határozatában egyes leplezett eszközök vonatkozásában az alkalmazásra irányuló indítványt elutasítja.
(3) Ha a bíróság a leplezett eszközök alkalmazását engedélyezi vagy részben engedélyezi, az erről szóló határozatban meg kell jelölni
a) a rendelkezésre álló, az érintett személy azonosítására szolgáló adatokat,
b) a bírói engedélyhez kötött leplezett eszközök alkalmazásának kezdő és befejező időpontját napban és órában meghatározva,
c) a bűncselekmény Btk. szerinti minősítésének megjelölésével, valamint a tényállás rövid leírásával azt, hogy az alkalmazást milyen bűncselekmény miatt és milyen célból engedélyezi,
d) azt, hogy mely bírói engedélyhez kötött leplezett eszköz alkalmazható, és
e) a 236. § (2) bekezdés f) pontjában meghatározott adatokat.

Ex-post permission
Section 238[116]
(1) If granting or extending a permission to use a covert means subject to permission of a judge would significantly jeopardise the objective of using covert means due to the delay involved, the prosecution service may order a secret search or the use of a covert means until the court adopts its decision, but no longer than one hundred and twenty hours.
(2) If the use of a covert means is ordered under paragraph (1), the prosecution service shall file a motion with the court for ex-post permission within seventy-two hours after issuing the order. The court shall decide on the motion of the prosecution service within one hundred and twenty hours after the order was issued.
(3) The circumstances confirming that the conditions laid down in paragraph (1) are met, as well as the time of issuing the order, indicated in hours, shall be specified in a motion for ex-post permission.
(4) The court shall dismiss a motion also if a) the motion is late, or b) permission could have been obtained before issuing an order to use under paragraph (1).
(5) If the court dismisses a motion for ex-post permission to use covert means or certain means specified in the motion, the result of using any non-permitted covert means may not be used as evidence, and all data acquired in such a manner shall be erased without delay.
(6) If the court dismisses a motion for ex-post permission, using a covert means subject to permission of a judge may not be ordered again under paragraph (1) for the same purpose and on the basis of the same reason or facts.
(7) If an ex-post permission to use covert means is granted, the period of use shall be calculated from the date of issuing an order under paragraph (1).

[116] Utólagos engedélyezés
238. § (1) Ha a bírói engedélyhez kötött leplezett eszközök alkalmazásának engedélyezése vagy az alkalmazás kiterjesztésének az engedélyezése olyan késedelemmel járna, amely a leplezett eszköz alkalmazásával elérni kívánt célt jelentősen veszélyeztetné, az ügyészség elrendelheti a titkos kutatást, illetve a bíróság döntéséig, de legfeljebb százhúsz órára elrendelheti a leplezett eszköz alkalmazását.
(2) A leplezett eszköz (1) bekezdés alapján elrendelt alkalmazása esetén az ügyészség az elrendelést követő hetvenkét órán belül indítványt tesz a bíróságnak az utólagos engedélyezés érdekében. A bíróság az ügyészség indítványáról az elrendeléstől számított százhúsz órán belül dönt.
(3) Az utólagos engedélyezés iránti indítvány tartalmazza az (1) bekezdésben meghatározott feltételek fennállását megalapozó körülményeket is, továbbá az elrendelés időpontját órában meghatározva.
(4) A bíróság az indítványt akkor is elutasítja, ha
a) az indítvány elkésett vagy
b) az engedély az alkalmazás (1) bekezdés alapján történő elrendelése előtt is beszerezhető lett volna.
(5) Ha a bíróság a leplezett eszközök vagy az indítványban megjelölt egyes eszközök alkalmazásának utólagos engedélyezése iránti indítványt elutasítja, a nem engedélyezett leplezett eszköz alkalmazásának eredménye bizonyítékként nem használható fel, és az így beszerzett adatokat haladéktalanul törölni kell.
(6) Ha a bíróság az utólagos engedélyezés iránti indítványt elutasítja, ugyanabból a célból, változatlan indok vagy tényállás alapján bírói engedélyhez kötött leplezett eszköz alkalmazása az (1) bekezdés alapján ismételten nem rendelhető el.
(7) A leplezett eszközök alkalmazásának utólagos engedélyezése esetén az alkalmazás kezdő időpontját az (1) bekezdés szerinti elrendelés időpontjától kell számítani.

Extending the scope of use
Section 241[117]
(1) The scope of use may be extended if, before the date of finishing the use of covert means as specified in the permission, it is necessary to use a covert means a) not covered by the permission, or b) already included in the permission concerning another information system subject to secret surveillance; another room, vehicle, or object subject to a secret search; another room or vehicle subject to secret surveillance of a locality; another place and another sender or recipient subject to the secret interception of a consignment; another electronic communications service or device, or information system subject to interception of communications against the person concerned.
(2) The court shall decide on extending the scope of use in accordance with sections 236 and 237 upon a motion from the prosecution service, and it shall amend the permission to use covert means accordingly.
(3) A motion to extend the scope of use shall include all data pertaining to the extension, as specified in section 236 (2) e) and f), and circumstances supporting such an extension; all documents supporting the extension and produced since the previous permission shall also be attached.
(4) The extension of the scope shall not affect the finishing date of using covert means against a person concerned, as specified in the previous permission or extension of the period of use.
(5) Motions to extend the scope and period of use may be submitted simultaneously.

[117] Az alkalmazás kiterjesztése
241. § (1) Az alkalmazás kiterjesztésének lehet helye, ha a leplezett eszközök alkalmazásának az engedélyben meghatározott befejező időpontjáig az érintett személlyel szemben
a) az engedélyben nem szereplő más leplezett eszköz alkalmazása, illetve
b) az engedélyben már megjelölt leplezett eszköz alkalmazásának folytatása információs rendszer titkos megfigyelése esetén más információs rendszer; titkos kutatás esetén más helyiség, jármű vagy tárgy; hely titkos megfigyelése esetén más helyiség vagy jármű; küldemény titkos megismerése esetén más hely, illetve más feladó vagy címzett; lehallgatás esetén más elektronikus hírközlési szolgáltatás vagy eszköz, illetve más információs rendszer vonatkozásában
szükséges.
(2) Az alkalmazás kiterjesztéséről a bíróság az ügyészség indítványa alapján, a 236. § és a 237. § szerint dönt és ennek megfelelően módosítja a leplezett eszközök alkalmazására vonatkozó engedélyét.
(3) Az alkalmazás kiterjesztésére irányuló indítvány tartalmazza a kiterjesztéssel összefüggő, a 236. § (2) bekezdés e) és f) pontjában meghatározott adatokat és a kiterjesztést megalapozó körülményeket, továbbá ahhoz csatolni kell a kiterjesztést alátámasztó, a korábbi engedélyezés óta keletkezett iratokat.
(4) Az alkalmazás kiterjesztése nem érinti a leplezett eszközöknek az érintett személlyel szembeni alkalmazásának a korábban engedélyezett vagy meghosszabbított befejező időpontját.
(5) Az alkalmazás kiterjesztése és az alkalmazás meghosszabbítása egyidejűleg is indítványozható.

Withdrawing a permission and prohibiting the use of covert means
Section 242[118]
(1) Upon a call from the court, the organ authorised to use covert means shall present all data available to it at the time of such call and acquired during the use of a covert means subject to permission of a judge.
(2) The court shall also examine the legality of using covert means when deciding on a motion to extend the period or scope of use.
(3) The court shall withdraw a permission to use covert means if a) the organ authorised to use covert means fails to present the data within the time limit specified in paragraph (1), b) the limits of the permission were exceeded, or c) a covert means was used in violation of a provision laid down in this Act regarding its use.
(4) The court shall prohibit the use of any covert means concerning which the statutory conditions of use are not met.
(5) If the court a) withdraws its permission to use a covert means, all data acquired during its use b) prohibits the use of a covert means, all data acquired using the prohibited covert means shall be erased without delay.

c) Investigation measures

Many investigation measures are **coercive measures** and thus the rules on coercive measures apply. Hungarian law authorizes searches of premises, vehicles, data storage devices, and other personal property in the presence of the suspect or an impartial witness, aligning with Article 30 para 1 (a)-(b). **Hungary permits** e.g. wiretapping, covert surveillance, and electronic data monitoring (with judicial authorization) for crimes punishable by at least 5 years (or 3 in aggravated cases). This meets Article 30 para 1 (e), which allows electronic communications interception.The general rules are: **4**

[118] Az engedély visszavonása és a leplezett eszköz alkalmazásának a megtiltása
242. § (1) A bíróság felhívására a leplezett eszközök alkalmazására feljogosított szerv köteles a bírói engedélyhez kötött leplezett eszköz alkalmazása során megszerzett, a felhívás időpontjáig a leplezett eszközök alkalmazására feljogosított szerv rendelkezésére álló adatokat nyolc napon belül bemutatni.
(2) A bíróság az alkalmazás meghosszabbítására vagy az alkalmazás kiterjesztésére irányuló indítványról hozott döntése során is vizsgálja a leplezett eszközök alkalmazásának törvényességét.
(3) A bíróság a leplezett eszközök alkalmazásának engedélyét visszavonja, ha
a) a leplezett eszközök alkalmazására feljogosított szerv az adatokat az (1) bekezdésben meghatározott határidőn belül nem mutatja be,
b) az engedély kereteit túllépték, vagy
c) a leplezett eszközöket az alkalmazásra vonatkozó, az e törvényben meghatározott rendelkezés megsértésével alkalmazták.
(4) A bíróság megtiltja annak a leplezett eszköznek az alkalmazását, amely vonatkozásában az alkalmazás törvényi feltételei nem állnak fenn.
(5) Ha a bíróság
a) a leplezett eszközök alkalmazására vonatkozó engedélyét visszavonja, az alkalmazás során,
b) valamely leplezett eszköz alkalmazását megtiltja, a megtiltott leplezett eszközzel
megszerzett adatokat haladéktalanul törölni kell.

Section 271[119]

(1) When ordering or implementing coercive measures, efforts must be made to ensure that their application results in the limitation of the basic rights of the affected person only to the extent and for the most necessary time.

(2) A coercive measure with more serious restrictions may be ordered if the goal to be achieved by the coercive measure cannot be achieved with a coercive measure with less restrictions or other procedural actions.

(3) The coercive measure must be carried out sparingly to the person concerned and respecting the fundamental rights of those not affected by the restriction. During the implementation of the coercive measure, care must be taken to ensure that it only affects persons other than the affected person to the extent necessary.

(4) Coercive measures restricting privacy and property rights must preferably be implemented between the sixth and twenty-second hours of the day.

(5) It must be ensured that during the implementation of the coercive measure, the circumstances of the private life of the person concerned that are not related to the criminal proceedings, or his personal data, are not made public.

(6) Unnecessary harm must be avoided during the execution of the coercive measure.

(7) The court and the prosecutor's office may use the investigative authority to implement the coercive measure ordered by it.

Section 272

(1) Coercive measures

a) coercive measure affecting personal freedom and

b) coercive measure affecting property.

(2) Coercive measure affecting personal freedom

a) custody,

b) keeping away,

c) criminal supervision,

d) the arrest and

e) prior compulsory medical treatment [items b)–e) hereafter together: judicially authorized coercive measure affecting personal freedom].

[119] 271. § (1) A kényszerintézkedés elrendelésekor, illetve végrehajtása során arra kell törekedni, hogy annak alkalmazása az érintett alapvető jogainak a korlátozását csak a legszükségesebb mértékben és ideig eredményezze.
(2) Súlyosabb korlátozással járó kényszerintézkedés akkor rendelhető el, ha a kényszerintézkedéssel elérni kívánt cél kisebb korlátozással járó kényszerintézkedéssel vagy egyéb eljárási cselekménnyel nem érhető el.
(3) A kényszerintézkedést az érintett kíméletével, a korlátozással nem érintett alapvető jogait tiszteletben tartva kell végrehajtani. A kényszerintézkedés végrehajtása során figyelemmel kell lenni arra, hogy az az érintetten kívüli személyt csak a legszükségesebb mértékben érintsen.
(4) A magánéletet, illetve a tulajdonjogot korlátozó kényszerintézkedéseket lehetőleg a napnak a hatodik és huszonkettedik órája között kell végrehajtani.
(5) Biztosítani kell, hogy a kényszerintézkedés végrehajtása során ne kerüljenek nyilvánosságra az érintett magánéletének a büntetőeljárással össze nem függő körülményei, illetve a személyes adatai.
(6) A kényszerintézkedés végrehajtása során kerülni kell a szükségtelen károkozást.
(7) A bíróság és az ügyészség az általa elrendelt kényszerintézkedés végrehajtásához igénybe veheti a nyomozó hatóságot.

(3) Coercive measure affecting property
a) research,
b) motorcycling,
c) seizure,
d) foreclosure and
e) making electronic data temporarily inaccessible.

aa. Para 1(a)

(1) Search measures

(a) Search any premises or land/search any means of transport/search any private home/search any clothes and any other personal property

Section 302[120] **5**
(1) The search is the search of the apartment, other premises, the fenced area or the vehicle in order to successfully conduct the criminal proceedings. The research may also cover the inspection of information systems and data carriers.
(2) An investigation may be ordered if it can be reasonably assumed that it is
a) to apprehend the perpetrator of a crime,
b) to detect traces of a crime,
c) to find a means of proof,
d) to find things subject to confiscation or confiscation
e) to inspect information systems and data carriers
leads

Section 303[121]
(1) The search is ordered by the court, the prosecutor's office or the investigative authority.

[120] A kutatás
302. § (1) A kutatás a büntetőeljárás eredményes lefolytatása érdekében a lakás, az egyéb helyiség, a bekerített hely vagy a jármű átkutatása. A kutatás információs rendszer, illetve adathordozó átvizsgálására is kiterjedhet.
(2) Kutatást akkor lehet elrendelni, ha megalapozottan feltehető, hogy az
a) bűncselekmény elkövetőjének elfogására,
b) bűncselekmény nyomainak felderítésére,
c) bizonyítási eszköz megtalálására,
d) elkobozható, illetve vagyonelkobzás alá eső dolog megtalálására vagy
e) információs rendszer, illetve adathordozó átvizsgálására
vezet.

[121] 303. § (1) A kutatást a bíróság, az ügyészség vagy a nyomozó hatóság rendeli el.
(2) Ha a közjegyzői vagy ügyvédi irodában tartandó kutatás közjegyzői vagy ügyvédi tevékenységgel összefüggő védett adat megismerésére irányul, a kutatást a bíróság rendeli el. A közjegyzői vagy ügyvédi irodában tartott kutatáson ügyész jelenléte kötelező.
(3) Ha a kutatás elrendeléséhez szükséges bírósági határozat meghozatala olyan késedelemmel járna, amely a kutatással elérni kívánt célt jelentősen veszélyeztetné, a kutatás a bíróság határozata nélkül is végrehajtható. Ilyen esetben a bíróság határozatát utólag haladéktalanul be kell szerezni. Ha a kutatást a bíróság nem rendeli el, annak eredménye bizonyítékként nem használható fel.

(2) If the search to be held in a notary's or lawyer's office is aimed at finding out protected data related to notary's or lawyer's activities, the search will be ordered by the court. The presence of a prosecutor is mandatory at the search held in a notary's or lawyer's office.
(3) If the court decision required to order the search would result in a delay that would significantly jeopardize the goal to be achieved with the search, the search can be carried out without a court decision. In such a case, the court's decision must be obtained immediately afterwards. If the research is not ordered by the court, its results cannot be used as evidence.

Section 304[122]
(1) The decision ordering the search must contain the purpose of the search and the facts establishing the order.
(2) If this is possible, the decision ordering the search must indicate the person, means of proof, thing subject to confiscation or confiscation, information system or data carrier to whom the search is aimed.

Section 305[123]
(1) The search – with the exception specified in paragraph (2) – must be carried out in the presence of the owner, possessor or user of the property or vehicle concerned.
(2) The search may also be carried out in the presence of the guardian, representative or an adult authorized by the owner, possessor or user of the property or vehicle concerned. If such a person is not present, to protect the interests of the person concerned, the search must be carried out in the presence of an adult who is not interested in the case.
(3) Before starting the search, the content of the decision ordering the search must be explained, and if this is possible, the decision must be delivered on the spot.

[122] 304. § (1) A kutatást elrendelő határozatnak tartalmaznia kell a kutatás célját és az elrendelését megalapozó tényeket.
(2) Ha ez lehetséges, a kutatást elrendelő határozatban meg kell jelölni azt a személyt, bizonyítási eszközt, elkobozható vagy vagyonelkobzás alá eső dolgot, információs rendszert vagy adathordozót, aki vagy amely megtalálására a kutatás irányul.
[123] 305. § (1) A kutatást – a (2) bekezdésben meghatározott kivétellel – az érintett ingatlan vagy jármű tulajdonosának, birtokosának vagy használójának a jelenlétében kell végrehajtani.
(2) A kutatás az érintett ingatlan, illetve jármű tulajdonosának, birtokosának vagy használójának védője, képviselője vagy az általa megbízott nagykorú személy jelenlétében is végrehajtható. Ha ilyen személy nincs jelen, akkor az érintett érdekeinek védelmére az ügyben nem érdekelt, nagykorú személy jelenlétében kell a kutatást végrehajtani.
(3) A kutatás megkezdése előtt ismertetni kell a kutatást elrendelő határozat tartalmát, és ha ez lehetséges, a határozatot a helyszínen kézbesíteni kell.
(4) Ha a kutatás meghatározott személy, bizonyítási eszköz, dolog, információs rendszer vagy adathordozó megtalálására irányul, akkor fel kell szólítani az érintett ingatlan, illetve jármű tulajdonosát, birtokosát vagy használóját, illetve az általa megbízott személyt, hogy a keresett tárgyi bizonyítási eszköz vagy személy hollétét fedje fel, illetve a keresett elektronikus adatot tegye hozzáférhetővé. A felszólítás teljesítése esetén a kutatás csak akkor folytatható, ha megalapozottan feltehető, hogy a kutatás során más bizonyítási eszköz, dolog, információs rendszer vagy adathordozó is fellelhető.
(5) A terhelt kivételével a kutatást akadályozó személy rendbírsággal sújtható.

(4) If the search is aimed at finding a specific person, evidence, thing, information system or data carrier, the owner, possessor or user of the property or vehicle in question, or the person authorized by him, must be notified that the physical evidence or reveal the person's whereabouts, or make the electronic data you are looking for available. If the request is fulfilled, the research can only be continued if it can be reasonably assumed that during the research, other means of proof, things, information systems or data carriers will also be found.
(5) With the exception of the defendant, the person who obstructs the research may be fined.

Section 306[124]
(1) The search is the search of the clothes and body of the person subjected to the search in order to find the means of proof, the thing that can be confiscated or that is subject to confiscation of property. During the motorcycling, any thing found on the person subject to the motorcycling can be searched.
(2) Motoring may be ordered against the defendant, a person reasonably suspected of having committed the crime, or a person who can reasonably be assumed to be in possession of a means of proof, a confiscable item, or an item subject to confiscation of property.
(3) Driving is ordered by the prosecutor's office or the investigative authority.

Section 307[125]
(1) If the search is aimed at finding a specific thing, the person subject to the search must be called upon to hand over the thing sought. If the request is fulfilled, motorcycling cannot be continued.
(2) Motorcycling may not be done in an indecent manner.

[124] A motozás
306. § (1) A motozás a bizonyítási eszköz, az elkobozható, illetve a vagyonelkobzás alá eső dolog megtalálása céljából a motozás alá vont személy ruházatának és testének az átvizsgálása. A motozás során a motozás alá vont személynél található bármely dolog is átvizsgálható.
(2) Motozást a terhelttel, a bűncselekmény elkövetésével megalapozottan gyanúsítható személlyel vagy az olyan személlyel szemben lehet elrendelni, akiről megalapozottan feltehető, hogy bizonyítási eszközt, elkobozható, illetve vagyonelkobzás alá eső dolgot tart magánál.
(3) A motozást az ügyészség vagy a nyomozó hatóság rendeli el.
[125] 307. § (1) Ha a motozás meghatározott dolog megtalálására irányul, akkor a motozás alá vont személyt fel kell szólítani, hogy a keresett dolgot adja át. A felszólítás teljesítése esetén a motozást nem lehet folytatni.
(2) A motozás nem történhet szeméremsértő módon.
(3) A testüregek átvizsgálását csak orvos végezheti, és a vizsgálat során egészségügyi dolgozó is jelen lehet.
(4) A motozásnál jelen lehet a motozás helyszínén tartózkodó, a motozás alá vont személy által megjelölt nagykorú személy, feltéve, hogy jelenléte az eljárás érdekeit nem sérti.
(5) A késedelmet nem tűrő eset kivételével a motozást a motozás alá vont személlyel azonos nemű személy végezheti, és a motozás során csak azonos nemű személy lehet jelen. A testüregek átvizsgálását végző orvos, a vizsgálat során közreműködő egészségügyi dolgozó és a motozás alá vont személy által megjelölt nagykorú személy a motozás alá vont személytől különböző nemű személy is lehet.
(6) A terhelt vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy kivételével a motozást akadályozó személy rendbírsággal sújtható.

(3) Body cavities can only be examined by a doctor, and a health worker can also be present during the examination.
(4) An adult person who is present at the site of the motorcycling and designated by the person involved in the motorcycling may be present at the motorcycling, provided that their presence does not harm the interests of the proceedings.
(5) With the exception of cases where delays cannot be tolerated, the motorcycling may be performed by a person of the same gender as the person subject to the motorcycling, and only a person of the same gender may be present during the motorcycling. The doctor performing the examination of the body cavities, the health worker participating in the examination, and the person of legal age designated by the subject may be a person of a different gender from the person subjected to the subject.
(6) With the exception of the accused or the person reasonably suspected of having committed the crime, the person who obstructs motorcycling may be fined.

(b) Search any computer system

6 **The electronic data**
Section 205[126]
(1) Electronic data is the appearance of facts, information or concepts in any form suitable for processing by an information system, including the program that ensures the execution of a function by the information system.
(2) Where this Act refers to a physical means of proof, electronic data shall also be understood, unless otherwise provided in this Act.

[126] Az elektronikus adat
205. § (1) Elektronikus adat a tények, információk vagy fogalmak minden olyan formában való megjelenése, amely információs rendszer általi feldolgozásra alkalmas, ideértve azon programot is, amely valamely funkciónak az információs rendszer által való végrehajtását biztosítja.
(2) Ahol e törvény tárgyi bizonyítási eszközt említ, azon e törvény eltérő rendelkezése hiányában az elektronikus adatot is érteni kell.

Section 232[127]

(1) In the course of secret surveillance of an information system, the organ authorised to use covert means may, with permission from a judge, secretly access, and record by technical means, data processed in an information system. For that purpose, any necessary electronic data may be placed in an information system, while any necessary technical device may be placed at a home, other room, fenced area, vehicle, or other object used by the person concerned, except for public areas, premises open to the public, and means of public transport.

(2) In the course of a secret search, the organ authorised to use covert means may, with permission from a judge, secretly search a home, other room, fenced area, vehicle, or other object used by the person concerned, except for public areas, premises open to the public, and means of public transport; it may also record its findings by technical means.

(3) In the course of secret surveillance of a locality, the organ authorised to use covert means may, with permission from a judge, secretly surveil and record events taking place at a home, other room, fenced area, or vehicle, except for public areas, premises open to the public, and means of public transport. For that purpose, any necessary technical means may be placed at the place of operation.

(4) In the course of secret interception of a consignment, the organ authorised to use covert means may, with permission from a judge, secretly open, and intercept, verify, and record the contents of a postal item or other sealed consignment.

(5) In the course of interception of communications, the organ authorised to use covert means may, with permission from a judge, intercept and record communications conducted through an electronic communications network or device, using an electronic communications service, or an information system.

[127] 232. § (1) Információs rendszer titkos megfigyelése során a leplezett eszközök alkalmazására feljogosított szerv bírói engedéllyel információs rendszerben kezelt adatokat titokban megismerhet, az észlelteket technikai eszközzel rögzítheti. Ennek érdekében az ehhez szükséges elektronikus adat az információs rendszerben, illetve a szükséges technikai eszköz – a nyilvános vagy a közönség részére nyitva álló hely kivételével – lakásban, egyéb helyiségben, bekerített helyen, illetve – a közösségi közlekedési eszköz kivételével – járműben, továbbá az érintett személy használatában lévő tárgyban elhelyezhető.

(2) Titkos kutatás során a leplezett eszközök alkalmazására feljogosított szerv bírói engedéllyel – a nyilvános vagy a közönség részére nyitva álló hely kivételével – lakást, egyéb helyiséget, bekerített helyet, illetve – a közösségi közlekedési eszköz kivételével – járművet, továbbá az érintett személy használatában lévő tárgyat titokban átkutathat, az észlelteket technikai eszközzel rögzítheti.

(3) Hely titkos megfigyelése során a leplezett eszközök alkalmazására feljogosított szerv bírói engedéllyel – a nyilvános vagy a közönség részére nyitva álló hely kivételével – a lakásban, egyéb helyiségben, bekerített helyen, illetve – a közösségi közlekedési eszköz kivételével – járművön történteket titokban technikai eszközzel megfigyelheti és rögzítheti. Ennek érdekében az ehhez szükséges technikai eszköz az alkalmazás helyén elhelyezhető.

(4) Küldemény titkos megismerése során a leplezett eszközök alkalmazására feljogosított szerv bírói engedéllyel postai küldeményt vagy egyéb zárt küldeményt titokban felbonthat, annak tartalmát megismerheti, ellenőrizheti és rögzítheti.

(5) Lehallgatás során a leplezett eszközök alkalmazására feljogosított szerv bírói engedéllyel elektronikus hírközlési szolgáltatás keretében elektronikus hírközlő hálózat vagy eszköz útján, illetve információs rendszeren folytatott kommunikáció tartalmát titokban megismerheti és rögzítheti.

Section 233[128] (1) Any technical means used, or electronic data placed in an information system, in the course of using a covert means subject to permission of a judge shall be removed without delay after finishing the use of the given covert means. If an obstacle prevents such removal, the technical means or electronic data concerned shall be removed without delay after the obstacle is eliminated.
(2) To place or remove a technical means or data used in the course of using a covert means subject to permission of a judge, a) the organ authorised to use covert means may use covert means not subject to permission of a judge, and b) the organ performing the use of a covert means may engage in secret information gathering under the Act applicable to that organ.

(2) Conservatory measures necessary to preserve their integrity/necessary to avoid the loss/necessary to avoid the contamination of evidence

7 The sections from above (see → para a) apply.

bb. Para 1(b) Obtainment of the production of any relevant object or document

8 **Order of Seizure**
Section 308[129]
(1) The purpose of the seizure is to secure the means of proof, the thing that can be confiscated or the property that is subject to confiscation in order to successfully conduct the criminal proceedings. Seizure restricts the right of ownership over the subject of the seizure.
(2) Seizure must be ordered if it is the subject of it
a) means of proof, or
b) can be confiscated or is subject to confiscation.
(3) It is possible to seize movable property, currency, electronic money or electronic data.

[128] 233. § (1) A bírói engedélyhez kötött leplezett eszköz alkalmazása során igénybe vett technikai eszközt vagy információs rendszerben elhelyezett elektronikus adatot a leplezett eszköz alkalmazásának befejezését követően haladéktalanul el kell távolítani. Ha az eltávolítás akadályba ütközik, a technikai eszközt vagy az elektronikus adatot az akadály megszűnését követően kell haladéktalanul eltávolítani.
(2) A bírói engedélyhez kötött leplezett eszköz alkalmazása során igénybe vett technikai eszköz vagy adat elhelyezése, valamint eltávolítása érdekében
a) a leplezett eszközök alkalmazására feljogosított szerv bírói engedélyhez nem kötött leplezett eszközt alkalmazhat, illetve
b) a leplezett eszközök alkalmazását végrehajtó szerv a rá irányadó törvény alapján titkos információgyűjtést végezhet.

[129] A lefoglalás elrendelése
308. § (1) A lefoglalás célja a bizonyítási eszköz, illetve az elkobozható dolog vagy a vagyonelkobzás alá eső vagyon biztosítása a büntetőeljárás eredményes lefolytatása érdekében. A lefoglalás a lefoglalás tárgya feletti tulajdonjogot korlátozza.
(2) El kell rendelni a lefoglalást, ha annak tárgya
a) bizonyítási eszköz, vagy
b) elkobozható, illetve vagyonelkobzás alá esik.
(3) Lefoglalni az ingó dolgot, a számlapénzt, az elektronikus pénzt vagy az elektronikus adatot lehet.

Section 309[130]

(1) Seizure is ordered by the court, the prosecutor's office or the investigative authority.

(2) The court shall order the confiscation of the means of proof held in a notary's or lawyer's office, containing protected data related to notary's or lawyer's activities.

(3) It is ordered by the public prosecutor's office before indictment, and afterwards by the court

a) postal items or other sealed items that have not yet been delivered to the addressee,

b) a communication or shipment that has not yet been forwarded to the addressee, to be forwarded in the course of an electronic communication service, or

c) evidence related to this activity held in the media content provider's editorial office in accordance with the Act on Freedom of the Press and Basic Rules of Media Content reservation.

(4) If the adoption of the court or prosecutor's decision necessary to order the seizure would result in a delay that would significantly jeopardize the goal to be achieved by the seizure, the prosecutor's office or the investigative authority may carry out the seizure or prohibit the sending of the communication or shipment until the decision of the authority authorized to order the seizure has been made. In such a case, the decision of the person authorized to order the seizure must be obtained immediately. If the person entitled to order the seizure does not order the seizure, the seized means of proof or shipment must be returned to the person concerned, or the prohibition on sending must be lifted.

Section 310

(1) It cannot be seized

a) communication or dispatch between the charged person, who can be reasonably suspected of having committed the crime, and the defense counsel, or

b) the lawyer's note on the case.

(2) With the exception specified in paragraph (4), it may not be seized

a) communication or dispatch between the charged person who can be reasonably suspected of having committed the crime and the person entitled to refuse to testify, or

[130] 309. § (1) A lefoglalást a bíróság, az ügyészség vagy a nyomozó hatóság rendeli el.
(2) A bíróság rendeli el a közjegyzői vagy ügyvédi irodában tartott, a közjegyzői vagy ügyvédi tevékenységgel összefüggő védett adatot tartalmazó bizonyítási eszköz lefoglalását.
(3) A vádemelés előtt az ügyészség, azt követően a bíróság rendeli el
a) a címzettnek még nem kézbesített postai küldemény vagy egyéb zárt küldemény,
b) a címzettnek még nem továbbított, elektronikus hírközlési szolgáltatás során továbbítandó közlés vagy küldemény, illetve
c) a sajtószabadságról és a médiatartalmak alapvető szabályairól szóló törvény szerinti médiatartalom-szolgáltató szerkesztőségében tartott, e tevékenységgel összefüggő bizonyítási eszköz
lefoglalását.
(4) Ha a lefoglalás elrendeléséhez szükséges bírósági vagy ügyészségi határozat meghozatala olyan késedelemmel járna, amely a lefoglalással elérni kívánt célt jelentősen veszélyeztetné, az ügyészség vagy a nyomozó hatóság a lefoglalás elrendelésére jogosult döntéséig végrehajthatja a lefoglalást, illetve megtilthatja a közlés vagy küldemény elküldését. Ilyen esetben a lefoglalás elrendelésére jogosult határozatát haladéktalanul be kell szerezni. Ha a lefoglalás elrendelésére jogosult a lefoglalást nem rendeli el, a lefoglalt bizonyítási eszközt vagy küldeményt az érintettnek vissza kell adni, illetve az elküldésre vonatkozó tilalmat fel kell oldani.

b) the means of proof for the content of which testimony may be refused,
if it is kept by a person entitled to refuse to testify.
(3) With the exception specified in subsection (4), it is not possible to seize documents or electronic data related to the activity of a person entitled to refuse to testify based on Section 173, kept in the premises used for the exercise of his profession or public commission.
(4) In the case specified in paragraphs (2) and (3), seizure may be ordered if
a) the crime was committed on the means of evidence to be seized,
b) the object of the seizure is the instrument of the crime,
c) the evidence to be seized bears traces of the perpetrator,
d) a person entitled to refuse to testify is reasonably suspected of guilt, participation, aiding and abetting or money laundering in connection with the case,
e) the person entitled to refuse to testify voluntarily hands over or makes available the means of evidence to be seized – after being warned of the provision specified in paragraphs (2) and (3), or
f) the court ordered the person entitled to refuse to testify under § 174 to reveal the identity of the person who gave him the information.

Execution of the reservation
Section 311[131]
(1) Seizure
a) by taking possession,
b) by ensuring preservation in another way,
c) by leaving the person concerned in custody, or
d) in the case of electronic data, in the manner specified in Section 315 (1).
can be performed.

[131] A lefoglalás végrehajtása
311. § (1) A lefoglalást
a) birtokba vétellel,
b) a megőrzés más módon történő biztosításával,
c) az érintett őrizetében hagyással, vagy
d) az elektronikus adat esetében a 315. § (1) bekezdésében meghatározott módon
lehet végrehajtani.
(2) A lefoglalást akkor lehet az érintett őrizetében hagyással vagy a megőrzés más módon történő biztosításával végrehajtani, ha
a) a dolog birtokba vételre nem alkalmas,
b) a dolog vagy elektronikus adat birtokosának, kezelőjének azok használatához fűződő érdeke ezt indokolja, vagy
c) más fontos ok ezt szükségessé teszi.
(3) A (2) bekezdésben meghatározott esetben a lefoglalt dolog vagy elektronikus adat kizárólag a lefoglalást elrendelő bíróság, ügyészség vagy nyomozó hatóság hozzájárulásával adható más birtokába. A hozzájárulás esetén a lefoglalt dolog megőrzésére az új birtokos köteles.
(4) A kölcsönzött kulturális javak különleges védelméről szóló törvényben meghatározott különleges védelemmel érintett dolog lefoglalása a védelem időtartamának leteltét követően hajtható végre.
(5) A lefoglalás végrehajtásának módjáról az elrendelésről szóló határozatban kell rendelkezni.
(6) A büntetőeljárás alatt a lefoglalás fenntartásának indokoltságát jogszabályban meghatározottak szerint vizsgálni kell. Ha a lefoglalásra a továbbiakban az eljárás érdekében nincs szükség, haladéktalanul intézkedni kell a lefoglalás megszüntetése és a lefoglalt dolog kiadása iránt, vagy a lefoglalt dolog elkobzását kell indítványozni.

(2) Seizure may be carried out by leaving the data subject in custody or by ensuring preservation in another way, if
a) the thing is not suitable for possession,
b) the interest of the owner or manager of the object or electronic data in their use justifies this, or
c) another important reason makes this necessary.
(3) In the case specified in paragraph (2), the seized thing or electronic data may only be transferred to another person with the consent of the court, prosecutor's office or investigative authority that ordered the seizure. In case of consent, the new owner is obliged to preserve the seized thing.
(4) Seizure of a thing subject to special protection defined in the Act on the Special Protection of Borrowed Cultural Property can be carried out after the period of protection has expired.
(5) The manner of execution of the seizure shall be stipulated in the decision on the order.
(6) During the criminal proceedings, the justification for the maintenance of the seizure must be examined in accordance with the law. If the seizure is no longer necessary for the sake of the procedure, measures must be taken immediately to end the seizure and release the seized thing, or a motion must be made to confiscate the seized thing.

Section 312[132]
(1) In order to implement the seizure, the owner or operator of the thing or electronic data must be called upon to reveal the whereabouts of the sought-after thing or to make the electronic data available. In the event of refusal to comply with the notice, the sought item or electronic data must be searched for by search or search. The person concerned must be warned of this.
(2) If the person concerned does not comply with the notice, he may be fined, unless
a) the accused or the person who can be reasonably suspected of having committed the crime,
b) the person who is entitled to refuse to testify, or
c) the person who cannot be questioned as a witness.
(3) With the exception of the accused or the person reasonably suspected of having committed the crime, the person who obstructs the seizure may be fined.

[132] 312. § (1) A lefoglalás végrehajtása érdekében a dolog, illetve az elektronikus adat birtokosát vagy kezelőjét fel kell szólítani, hogy a keresett dolog hollétét fedje fel, illetve az elektronikus adatot tegye hozzáférhetővé. A felszólítás teljesítésének megtagadása esetén a keresett dolgot, illetve elektronikus adatot kutatással vagy motozással kell felkutatni. Erre az érintettet figyelmeztetni kell.
(2) Ha az érintett a felszólításnak nem tesz eleget, rendbírsággal sújtható, kivéve
a) a terhelt vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy,
b) az a személy, aki a tanúvallomás megtagadására jogosult, illetve
c) az a személy, aki tanúként nem hallgatható ki.
(3) A terhelt vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy kivételével a lefoglalást akadályozó személy rendbírsággal sújtható.

Seizure of the document
Section 313[133]
(1) The original document must be seized if
a) can be confiscated,
b) the document certifying the legal title or the right to dispose of the property subject to confiscation,
c) it bears traces of the crime,
d) documents that cannot be determined in advance or a significant amount must be inspected, or
e) this is absolutely necessary for the success of the proof.
(2) If the original document is not needed during the procedure, a copy must be made as soon as possible, taking into account the technical capabilities of the party ordering the seizure, as well as the quantity of the seized document. In such a case, the seizure of the original document may only last until the copy is made, but for a maximum of two months.
(3) If this does not endanger the interest of the procedure, a certified copy of the seized original document must be made for its owner – upon motion.

Section 314[134]
(1) If, according to the holder of the document, or his defender or representative, the testimony regarding its content can be refused on the basis of § 172 and he does not consent to the knowledge of the content of the document, the document or the data carrier containing it shall be released sealed by the investigating authority or at the disposal of the prosecution. In such a case, the investigating authority or the member of the

[133] Az irat lefoglalása
313. § (1) Az eredeti iratot akkor kell lefoglalni, ha
a) az elkobozható,
b) az a vagyonelkobzás alá eső vagyonnal kapcsolatos jogcímet vagy az azzal való rendelkezési jogot igazoló okirat,
c) az a bűncselekmény nyomait hordozza,
d) előre meg nem határozható vagy jelentős mennyiségű iratot kell átvizsgálni, vagy
e) a bizonyítás sikeressége érdekében ez feltétlenül szükséges.
(2) Ha az eredeti iratra az eljárás során nincs szükség, arról a lefoglalást elrendelő technikai lehetőségeire, illetve a lefoglalt irat mennyiségére tekintettel a legrövidebb időn belül másolatot kell készíteni. Ilyen esetben az eredeti irat lefoglalása csak a másolat elkészítéséig, de legfeljebb két hónapig tarthat.
(3) Ha ez az eljárás érdekét nem veszélyezteti, a lefoglalt eredeti iratról a birtokosa részére – indítványra – hiteles másolatot kell készíteni.

[134] 314. § (1) Ha az irat birtokosa, illetve védője vagy képviselője szerint annak tartalmára a 172. § alapján megtagadható a tanúvallomás és az irat tartalmának a megismeréséhez nem járul hozzá, az iratot, illetve az azt tartalmazó adathordozót lezártan bocsátja a nyomozó hatóság vagy az ügyészség rendelkezésére. Ilyen esetben a nyomozó hatóság, illetve az ügyészségi nyomozást folytató ügyészségi szerv tagja az irat tartalmát nem ismerheti meg.
(2) A nyomozó hatóság által folytatott nyomozás esetén az ügyészség, az ügyészség által folytatott nyomozás esetén a felettes ügyészség a lezárt irat, illetve adathordozó tartalmának megismerése után haladéktalanul dönt a lefoglalásról, vagy ha arra nem jogosult, a lefoglalás elrendelése iránt haladéktalanul indítványt tesz a bíróságnak. Ha az ügyészség vagy a bíróság a lefoglalást nem rendeli el, az irat sem a folyamatban lévő ügyben, sem más büntetőeljárásban bizonyítási eszközként nem használható fel.

prosecutorial body conducting the prosecutorial investigation may not know the contents of the document.
(2) In the case of an investigation conducted by an investigative authority, the public prosecutor's office, or in the case of an investigation conducted by the public prosecutor's office, the superior public prosecutor's office shall immediately decide on the seizure after learning of the contents of the sealed document or data carrier, or if he is not entitled to do so, he shall immediately submit a motion to order the seizure to the to the court. If the prosecutor's office or the court does not order the seizure, the document cannot be used as evidence either in the ongoing case or in other criminal proceedings.

Redemption of the seized thing
Section 318[135]
(1) If the seizure of the thing took place solely in order to ensure confiscation of property, and no substantiated demand for its release was reported, the person from whom the thing was seized may propose the acceptance of the redemption of the thing.
(2) The public prosecutor's office decides on the acceptance of the redemption of the seized item before the indictment, and the court after that.
(3) The amount of the redemption is established by the prosecutor's office and the court. The estimated value of the thing must be established as the amount of redemption.
(4) The motion to accept redemption must be rejected if a
a) the determined amount is disputed by the person concerned,
b) determining the redemption amount would result in the procedure being prolonged, or
c) determining the redemption amount would involve disproportionate costs.
(5) There is no legal remedy against the rejection of the motion to accept redemption.
(6) The amount paid during redemption takes the place of the seized thing, which the seizure covers without a separate decision, and the seizure with regard to the originally seized thing is terminated with the redemption. In such a case, the confiscation of assets must be ordered for the amount that replaces the thing.

[135] A lefoglalt dolog megváltása
318. § (1) Ha a dolog lefoglalására kizárólag vagyonelkobzás biztosítása érdekében került sor, és annak kiadása iránt megalapozott igényt nem jelentettek be, az, akitől a dolgot lefoglalták, indítványozhatja a dolog megváltásának elfogadását.
(2) A lefoglalt dolog megváltásának elfogadásáról a vádemelés előtt az ügyészség, azt követően a bíróság határoz.
(3) A megváltás összegét az ügyészség, illetve a bíróság állapítja meg. A megváltás összegeként a dolog becsült értékét kell megállapítani.
(4) A megváltás elfogadására irányuló indítványt el kell utasítani, ha a
a) megállapított összeget az érintett vitatja,
b) megváltás összegének a megállapítása az eljárás elhúzódását eredményezné, vagy
c) megváltás összegének a megállapítása aránytalan költséggel járna.
(5) A megváltás elfogadására irányuló indítvány elutasítása ellen nincs helye jogorvoslatnak.
(6) A megváltás során kifizetett összeg a lefoglalt dolog helyébe lép, amelyre a lefoglalás külön határozat nélkül kiterjed, és a lefoglalás az eredetileg lefoglalt dolog tekintetében a megváltással megszűnik. Ilyen esetben a vagyonelkobzást a dolog helyébe lépő összegre kell elrendelni.

cc. Para 1(c)

(1) Obtainment of the production of stored computer data, encrypted or decrypted

(a) General Provisions in the CPC

9	**Data request** **Section 261**[136] (1) In criminal proceedings, the court, the prosecutor's office and the investigative authority, or – in cases specified by law – the body conducting the preparatory procedure, may request data from any body, legal person or organization without legal personality. (2) After the indictment, the prosecutor's office may request the provision of data in order to make a motion for evidence, to search for and provide evidence. (3) Within the framework of the data request, it can be linked to the criminal proceedings, a) transmission of data held by the organization, b) transmission of electronic data or documents held by the organization, or c) providing information that can be fulfilled by the organization can be requested. (4) The data request may also be directed to the transmission or receipt of data managed in state or local government registers. (5) It must be indicated in the request for data a) the conditions and purpose of the data request according to this law, b) data necessary for the fulfillment of the data provision, for the purpose of identifying the subject of the data provision, in particular the data of the person, object or service concerned, c) the range of data to be provided and d) the method and deadline for providing data.

[136] Adatkérés
261. § (1) A büntetőeljárásban a bíróság, az ügyészség és a nyomozó hatóság, illetve – törvényben meghatározott esetben – az előkészítő eljárást folytató szerv bármely szervtől, jogi személytől vagy jogi személyiséggel nem rendelkező szervezettől adatszolgáltatást kérhet.
(2) A vádemelés után az ügyészség a bizonyítási indítvány megtétele, bizonyítási eszköz felkutatása és biztosítása érdekében adatszolgáltatást kérhet.
(3) Az adatkérés keretében a büntetőeljárással összefüggésbe hozható,
a) a szervezet birtokában lévő adat továbbítása,
b) a szervezet birtokában lévő elektronikus adat vagy irat továbbítása, vagy
c) a szervezet által teljesíthető tájékoztatás adása
kérhető.
(4) Az adatkérés állami vagy helyi önkormányzati nyilvántartásban kezelt adat továbbítására, illetve átvételére is irányulhat.
(5) Az adatkérésre vonatkozó kérelemben meg kell jelölni
a) az adatkérés e törvény szerinti feltételeit, célját,
b) az adatszolgáltatás teljesítéséhez szükséges, az adatszolgáltatás tárgyának azonosítására szolgáló adatokat, így különösen az érintett személy, tárgy vagy szolgáltatás adatait,
c) a szolgáltatandó adatok körét és
d) az adatszolgáltatás teljesítésének módját és határidejét.

Section 262
(1) The investigating authority and the body performing internal crime prevention and crime detection tasks of the police, as well as the anti-terrorism body of the police, may only request data with the permission of the prosecutor's office
a) […]
c) from the electronic communications service provider,
d) from the postal service provider, or from the person or organization performing postal cooperative activities,
e) from the organization handling data classified as bank secrets, payment secrets, securities secrets, treasury secrets or insurance secrets, in relation to such data,
f) from the organization managing health and personal data defined in the Act on the Management and Protection of Health and Related Personal Data, regarding such data.
(2) Documents supporting the justification of the data request must be attached to the motion for the permission required for the data request.
(3) If the authorization of the data request would result in a delay that would significantly jeopardize the goal to be achieved by the data request, the provision of data may be requested without authorization. The provision of data cannot be refused due to the lack of a prosecutor's license. In such a case, the permission of the public prosecutor's office must be obtained immediately afterwards. If the data request is not authorized by the prosecutor's office, the data obtained in this way cannot be used as evidence and must be deleted immediately.

Section 263[137]
(1) If the law allows this, the body requesting the provision of data can take the necessary data from the register or data file with direct access, and may also use the cooperation of the national security service designated to perform such services by the Act on National Security Services for the data request.
(2) For data provision to be performed within the framework of the data request
a) in the case of an application to be completed electronically, at least one and no more than thirty days,
b) in the case of a request to be fulfilled by other means, at least eight and at most thirty days
a deadline can be established.

[137] 263. § (1) Ha törvény ezt lehetővé teszi, az adatszolgáltatást kérő szerv a nyilvántartásból vagy az adatállományból közvetlen hozzáféréssel veszi át a szükséges adatokat, illetve az adatkéréshez a nemzetbiztonsági szolgálatokról szóló törvény által ilyen szolgáltatások végzésére kijelölt nemzetbiztonsági szolgálat közreműködését is igénybe veheti.
(2) Az adatkérés keretében teljesítendő adatszolgáltatásra
a) elektronikus úton teljesítendő kérelem esetén legalább egy, legfeljebb harmincnapos,
b) egyéb úton teljesítendő kérelem esetén legalább nyolc, legfeljebb harmincnapos
határidő állapítható meg.

Section 264[138]

(1) The organization contacted in the context of a data request – unless otherwise provided by law – is obliged to fulfill the contents of the request within the established deadline or, upon detection, to notify the obstacle to fulfillment without delay. Data provision must be completed even in the case of incomplete or fragmentary data.

(2) The organization contacted in the framework of a data request is obliged to fulfill the contents of the request – including, in particular, the processing, recording and transmission of the data in writing or electronically – free of charge.

(3) The organization contacted in the context of the data request must restore encrypted or otherwise unrecognizable data to its original state before transfer or disclosure, or make the content of the data available to the organization requesting the data.

(4) In the framework of the data request, only the provision of such personal data as is absolutely necessary to achieve the purpose of the data request may be requested.

(5) If, as a result of the data request, personal data that is not related to the purpose of the data request comes to the attention of the body requesting the data, the data must be deleted immediately. If the personal data to be deleted is included in the original document, an extract of the personal data related to the purpose of the data request must be prepared and, at the same time, the original document must be returned to the organization contacted in the context of the data request.

(6) The original document in the possession of the body requesting the provision of data in the context of the data request must be returned to the organization contacted in the context of the data request at the latest at the end of the procedure.

[138] 264. § (1) Az adatkérés keretében megkeresett szervezet – ha törvény másképp nem rendelkezik – köteles a kérelemben foglaltakat a megállapított határidő alatt teljesíteni vagy annak észlelését követően a teljesítés akadályát haladéktalanul közölni. Az adatszolgáltatást hiányos vagy töredékadatok esetén is teljesíteni kell.

(2) Az adatkérés keretében megkeresett szervezet köteles a kérelemben foglaltakat – ideértve különösen az adat feldolgozását, írásban vagy elektronikus úton való rögzítését és továbbítását – térítésmentesen teljesíteni.

(3) A rejtjelezett vagy más módon megismerhetetlenné tett adatot az adatkérés keretében megkeresett szervezet köteles az átadás vagy a közlés előtt eredeti állapotába visszaállítani, illetve az adatszolgáltatást kérő szerv számára az adat tartalmát megismerhetővé tenni.

(4) Az adatkérés keretében csak annyi és olyan személyes adat szolgáltatása kérhető, amely az adatkérés céljának megvalósításához elengedhetetlenül szükséges.

(5) Ha az adatkérés eredményeként olyan személyes adat jut az adatszolgáltatást kérő szerv tudomására, amely az adatkérés céljával nem függ össze, az adatot haladéktalanul törölni kell. Ha a törlendő személyes adat eredeti iratban szerepel, az adatkérés céljával összefüggő személyes adatról kivonatot kell készíteni és ezzel egyidejűleg az eredeti iratot az adatkérés keretében megkeresett szervezetnek vissza kell küldeni.

(6) Az adatkérés keretében az adatszolgáltatást kérő szerv birtokába került eredeti iratot legkésőbb az eljárás befejezésekor az adatkérés keretében megkeresett szervezetnek vissza kell küldeni.

(7) Ha az adatkérésről történő tájékoztatás a büntetőeljárás eredményességét veszélyeztetné, az adatszolgáltatást kérő szerv erre vonatkozó kifejezett rendelkezése alapján az adatkérés keretében megkeresett szervezet a kérelem tényéről és a kérelemben foglaltakról, valamint az annak során teljesített adattovábbítás tartalmáról másnak nem adhat tájékoztatást és köteles biztosítani, hogy mindezek titokban maradjanak. A kérelemmel érintett személynek a saját személyes adatai kezelésére vonatkozó tájékoztatás iránti kérelme esetén olyan tájékoztatást kell adni, amelyből nem derül ki, hogy a személyes adatainak továbbítására az adatkérés céljából sor került. Erre az adatkérés keretében megkeresett szervezetet az adatkérésre vonatkozó kérelemben figyelmeztetni kell.

(8) A (7) bekezdés szerinti korlátozás az előkészítő eljárás befejezéséig, illetve a nyomozás befejezéséig tarthat, kivéve, ha a korlátozás megszüntetése az érintettel szemben folytatott más büntetőeljárás eredményességét veszélyeztetné. A korlátozás megszüntetéséről az adatkérés keretében megkeresett szervezetet tájékoztatni kell.

(7) If providing information about the data request would endanger the effectiveness of the criminal proceedings, based on the express provision of the body requesting the data provision, the organization contacted in the context of the data request may not provide information to others about the fact of the request and the contents of the request, as well as the content of the data transfer carried out in the course of it, and must ensure that, to keep all this secret. In the event that the person affected by the request requests information regarding the management of his/her personal data, information must be provided that does not reveal that his/her personal data was transmitted for the purpose of the data request. The organization contacted as part of the data request must be warned of this in the request for data.
(8) The restriction according to paragraph (7) may last until the completion of the preparatory procedure or until the end of the investigation, unless the termination of the restriction would jeopardize the effectiveness of other criminal proceedings against the person concerned. The organization contacted in the context of the data request must be informed of the termination of the restriction.

Section 265[139]
(1) If the organization contacted in the framework of a data request does not fulfill the contents of the request within the established deadline, refuses to fulfill it without grounds, or violates its obligations contained in Section 264, paragraph (7), it may be fined. If the conditions are met, in addition to the imposition of a fine, the coercive measures specified in this law may also be ordered.
(2) If the organization contacted in the context of a data request does not comply with the contents of the request because it is prohibited by law, no further procedural action concerning the requested organization may be carried out in order to obtain the data in the possession of the requested organization.

[139] Egyéb adatszerző tevékenység
268. § (1) A bíróság, az ügyészség és a nyomozó hatóság határozatával elrendelheti
a) az ismeretlen helyen lévő dolog hollétének megállapítása, valamint ismeretlen eredetű dolog azonosítása céljából annak a dolognak a körözését, amely bizonyítási eszköz,
b) az ismeretlen helyen lévő dolog hollétének megállapítása, valamint ismeretlen eredetű dolog azonosítása céljából annak a dolognak a körözését, amely elkobozható, vagy amelyre vagyonelkobzás rendelhető el,
c) a tanú vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy körözését, ha a személyazonossága ismeretlen,
d) az ismeretlen helyen tartózkodó tanú vagy bűncselekmény elkövetésével megalapozottan gyanúsítható személy, illetve terhelt körözését elérhetőségének megállapítása érdekében,
e) holttest, holttestrész azonosítása érdekében annak a holttestnek, holttestrésznek a körözését, amely bizonyítási eszköz.
(2) A körözést vissza kell vonni, ha az elrendelés oka megszűnt. Az (1) bekezdés a), c) és d) pontja alapján elrendelt körözést vissza kell vonni az eljárás megszüntetését, illetve jogerős befejezését követően.
(3) A körözés visszavonásáról vagy módosításáról az a bíróság, ügyészség vagy nyomozó hatóság határoz, amely előtt az eljárás folyamatban van. A vádemelés előtt a nyomozó hatóság által elrendelt körözést az ügyészség is visszavonhatja vagy módosíthatja.
(4) Ha az eljárás nem a körözést elrendelő bíróság, ügyészség vagy nyomozó hatóság előtt van folyamatban vagy az eljárás során változik az ügyben eljáró bíróság, ügyészség vagy nyomozó hatóság, és a körözés feltételei továbbra is fennállnak, a körözés visszavonása helyett az eljáró bíróság, ügyészség vagy nyomozó hatóság indokolt esetben e körülmény körözési nyilvántartási rendszerben történő rögzítése érdekében intézkedik.
(5) A körözés elrendelése, visszavonása vagy módosítása ellen nincs helye jogorvoslatnak.

Data collection

Section 267[140]

(1) The prosecution service, the investigating authority, the police organ performing internal crime prevention and crime detection activities, and the counter-terrorism police organ may collect data to establish the suspicion of a criminal offence or whether there are any means of evidence and where they are located.

(2) After the indictment, the prosecution service may collect data and may also make use of an investigating authority and the asset recovery organ of the investigating authority to submit a motion for evidence, to locate or secure a means of evidence and to detect and secure things or assets that may be confiscated or are subject to forfeiture of assets.

(3) In the course of data collection, a) data may be collected from the registers specified in the Act on the prosecution service, the Act on the police, and the Act on the National Tax and Customs Administration, b) data may be collected from a data file or source prepared for publication or published in a lawful manner, c) information may be requested from any person, d) the selection or identification of a person or object may be requested by presenting an image, sound, or audio-visual recording, and e) the scene of a criminal offence may be inspected.

(4) A member of the authority carrying out a data collection shall draw up a memorandum of the data collection.

(5) A statement recorded in the memorandum of a data collection may be used as a testimony, provided that the person who made that statement maintains his statement during his interrogation as a defendant or witness.

[140] Egyéb adatszerző tevékenység

268. § (1) A bíróság, az ügyészség és a nyomozó hatóság határozatával elrendelheti

a) az ismeretlen helyen lévő dolog hollétének megállapítása, valamint ismeretlen eredetű dolog azonosítása céljából annak a dolognak a körözését, amely bizonyítási eszköz,

b) az ismeretlen helyen lévő dolog hollétének megállapítása, valamint ismeretlen eredetű dolog azonosítása céljából annak a dolognak a körözését, amely elkobozható, vagy amelyre vagyonelkobzás rendelhető el,

c) a tanú vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy körözését, ha a személyazonossága ismeretlen,

d) az ismeretlen helyen tartózkodó tanú vagy bűncselekmény elkövetésével megalapozottan gyanúsítható személy, illetve terhelt körözését elérhetőségének megállapítása érdekében,

e) holttest, holttestrész azonosítása érdekében annak a holttestnek, holttestrésznek a körözését, amely bizonyítási eszköz.

(2) A körözést vissza kell vonni, ha az elrendelés oka megszűnt. Az (1) bekezdés a), c) és d) pontja alapján elrendelt körözést vissza kell vonni az eljárás megszüntetését, illetve jogerős befejezését követően.

(3) A körözés visszavonásáról vagy módosításáról az a bíróság, ügyészség vagy nyomozó hatóság határoz, amely előtt az eljárás folyamatban van. A vádemelés előtt a nyomozó hatóság által elrendelt körözést az ügyészség is visszavonhatja vagy módosíthatja.

(4) Ha az eljárás nem a körözést elrendelő bíróság, ügyészség vagy nyomozó hatóság előtt van folyamatban vagy az eljárás során változik az ügyben eljáró bíróság, ügyészség vagy nyomozó hatóság, és a körözés feltételei továbbra is fennállnak, a körözés visszavonása helyett az eljáró bíróság, ügyészség vagy nyomozó hatóság indokolt esetben e körülmény körözési nyilvántartási rendszerben történő rögzítése érdekében intézkedik.

(5) A körözés elrendelése, visszavonása vagy módosítása ellen nincs helye jogorvoslatnak.

Other activities to acquire data
Section 268[141]
(1) The court, the prosecution service, and the investigating authority may issue, by adopting a decision, a search warrant for a) a thing that serves as a means of evidence, to determine the location of a thing at an unknown location or to identify a thing of an unknown source, b) a thing that may be subject to confiscation or forfeiture of assets, to determine the location of the thing at an unknown location or to identify a thing of an unknown source, c) a witness or a person reasonably suspected of having committed a criminal offence if his identity is unknown, d) a witness, a person reasonably suspected of having committed a criminal offence or a defendant, whose whereabouts are unknown, to determine his contact details, e) a corpse, or part of a corpse, that serves as a means of evidence, to identify the corpse or part of a corpse concerned.
(2) A search warrant shall be withdrawn if the reason for its issuance ceases to exist. A search warrant issued under paragraph (1) a), c), or d) shall be withdrawn after the proceeding is terminated or concluded with final and binding effect.
(3) The court, prosecution office, or investigating authority of the proceeding shall decide on withdrawing or amending a search warrant. A search warrant issued by an investigating authority before the indictment may also be withdrawn or amended by the prosecution service.
(4) If the court, prosecution office, or investigating authority that issued the arrest warrant is not the same as that of the proceeding, or if the proceeding court, prosecution office, or investigating authority changes during the proceeding, while the conditions of the search warrant are still met, the proceeding court, prosecution office, or investigating authority shall not withdraw the search warrant, but take action, in justified cases, to have the change entered into the search warrant register.

[141] Egyéb adatszerző tevékenység
268. § (1) A bíróság, az ügyészség és a nyomozó hatóság határozatával elrendelheti
a) az ismeretlen helyen lévő dolog hollétének megállapítása, valamint ismeretlen eredetű dolog azonosítása céljából annak a dolognak a körözését, amely bizonyítási eszköz,
b) az ismeretlen helyen lévő dolog hollétének megállapítása, valamint ismeretlen eredetű dolog azonosítása céljából annak a dolognak a körözését, amely elkobozható, vagy amelyre vagyonelkobzás rendelhető el,
c) a tanú vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy körözését, ha a személyazonossága ismeretlen,
d) az ismeretlen helyen tartózkodó tanú vagy bűncselekmény elkövetésével megalapozottan gyanúsítható személy, illetve terhelt körözését elérhetőségének megállapítása érdekében,
e) holttest, holttestrész azonosítása érdekében annak a holttestnek, holttestrésznek a körözését, amely bizonyítási eszköz.
(2) A körözést vissza kell vonni, ha az elrendelés oka megszűnt. Az (1) bekezdés a), c) és d) pontja alapján elrendelt körözést vissza kell vonni az eljárás megszüntetését, illetve jogerős befejezését követően.
(3) A körözés visszavonásáról vagy módosításáról az a bíróság, ügyészség vagy nyomozó hatóság határoz, amely előtt az eljárás folyamatban van. A vádemelés előtt a nyomozó hatóság által elrendelt körözést az ügyészség is visszavonhatja vagy módosíthatja.
(4) Ha az eljárás nem a körözést elrendelő bíróság, ügyészség vagy nyomozó hatóság előtt van folyamatban vagy az eljárás során változik az ügyben eljáró bíróság, ügyészség vagy nyomozó hatóság, és a körözés feltételei továbbra is fennállnak, a körözés visszavonása helyett az eljáró bíróság, ügyészség vagy nyomozó hatóság indokolt esetben e körülmény körözési nyilvántartási rendszerben történő rögzítése érdekében intézkedik.
(5) A körözés elrendelése, visszavonása vagy módosítása ellen nincs helye jogorvoslatnak.

(5) No legal remedy shall lie against the issuance, withdrawal or amendment of a search warrant.

(b) Special Provisions in the CPC Tax Code, Digital Evidence Act

10 **Seizure of electronic data and obligation to preserve it**
Section 315[142]
(1) Seizure of electronic data
a) by making a copy of the electronic data,
b) by transferring electronic data,
c) by making a copy of the entire content of the information system or data carrier containing it,
d) by seizing the information system or data carrier containing it, or
e) in another way defined by law
can be performed.
(2) Seizure of electronic data used for payment can also be carried out by performing an operation with the electronic data that prevents the data subject from disposing of more than the property value expressed by the electronic data.
(3) For the seizure of a document that exists as electronic data, refer to Art. 313-314. the provisions of § must also be applied accordingly.
(4) Seizure of electronic data must be carried out in such a way that it does not extend to electronic data unnecessary for the purpose of criminal proceedings, and such electronic data is affected by the seizure for the shortest possible time.
(5) The information system or data carrier containing electronic data may be seized if
a) can be confiscated or is subject to confiscation,
b) it is important as a means of material evidence, or

[142] Az elektronikus adat lefoglalása és a megőrzésére kötelezés
315. § (1) Az elektronikus adat lefoglalását
a) az elektronikus adatról másolat készítésével,
b) az elektronikus adat áthelyezésével,
c) az azt tartalmazó információs rendszer vagy adathordozó teljes tartalmáról történő másolat készítésével,
d) az azt tartalmazó információs rendszer vagy adathordozó lefoglalásával, vagy
e) jogszabályban meghatározott más módon
lehet végrehajtani.
(2) A fizetésre használt elektronikus adat lefoglalását úgy is végre lehet hajtani, hogy az elektronikus adattal olyan műveletet végeznek, amely az érintettnek az elektronikus adat által kifejezett vagyoni érték feletti rendelkezési lehetőségét megakadályozza.
(3) Az elektronikus adatként létező irat lefoglalására a 313–314. § rendelkezéseit is megfelelően alkalmazni kell.
(4) Az elektronikus adat lefoglalását úgy kell végrehajtani, hogy az a büntetőeljárás céljából szükségtelen elektronikus adatra lehetőleg ne terjedjen ki, illetve az ilyen elektronikus adatot a lefoglalás a legrövidebb ideig érintse.
(5) Az elektronikus adatot tartalmazó információs rendszer vagy adathordozó akkor foglalható le, ha
a) az elkobozható, illetve vagyonelkobzás alá esik,
b) az tárgyi bizonyítási eszközként bír jelentőséggel, vagy
c) a bizonyítás érdekében az abban tárolt, előre meg nem határozható vagy jelentős mennyiségű elektronikus adat átvizsgálására van szükség.
(6) Ha ez az eljárás érdekét nem veszélyezteti, információs rendszer vagy adathordozó lefoglalása esetén az elektronikus adattal rendelkezni jogosult kérésére másolatot kell készíteni az általa megjelölt elektronikus adatról.

c) in order to prove it, it is necessary to scan the electronic data that cannot be determined in advance or a significant amount.
(6) If the interests of this procedure are not jeopardized, in the event of seizure of an information system or data carrier, a copy of the electronic data specified by the person entitled to dispose of the electronic data must be made upon request.

Section 316[143]
(1) An obligation to preserve electronic data may be ordered in order to detect and prove the crime. The obligation to preserve electronic data limits the right of disposal of the electronic data owner, processor, and operator (hereinafter referred to as the person obliged to preserve the electronic data).
(2) The obligation to preserve electronic data is ordered by the court, the prosecutor's office or the investigative authority.
(3) An obligation to preserve electronic data can be ordered if it
a) to detect evidence,
b) to provide a means of proof, or

[143] 316. § (1) A bűncselekmény felderítése, illetve a bizonyítás érdekében elektronikus adat megőrzésére kötelezést lehet elrendelni. Az elektronikus adat megőrzésére kötelezés az elektronikus adat birtokosának, feldolgozójának, illetve kezelőjének (a továbbiakban együtt: megőrzésre kötelezett) az elektronikus adat feletti rendelkezési jogát korlátozza.
(2) Az elektronikus adat megőrzésére kötelezést a bíróság, az ügyészség vagy a nyomozó hatóság rendeli el.
(3) Az elektronikus adat megőrzésére kötelezést akkor lehet elrendelni, ha az
a) bizonyítási eszköz felderítéséhez,
b) bizonyítási eszköz biztosításához, illetve
c) a gyanúsított kilétének vagy tényleges tartózkodási helyének a megállapításához
szükséges.
(4) A megőrzésre kötelezett a határozat vele történő közlésének időpontjától köteles a határozatban megjelölt elektronikus adatot változatlanul megőrizni és – szükség esetén más adatállománytól elkülönítve – biztosítani annak biztonságos tárolását. A megőrzésre kötelezett köteles az elektronikus adat megváltoztatását, törlését, megsemmisülését, továbbítását, az elektronikus adatról másolat jogosulatlan készítését vagy az ahhoz való jogosulatlan hozzáférést megakadályozni.
(5) A megőrzésre kötelezést elrendelő a megőrzéssel érintett elektronikus adatot minősített vagy minősített tanúsítványon alapuló fokozott biztonságú elektronikus aláírással vagy elektronikus bélyegzővel láthatja el.
(6) Ha az elektronikus adat eredeti helyen történő megőrzése az érintettnek az elektronikus adat feldolgozásával, kezelésével, tárolásával vagy továbbításával kapcsolatos tevékenységét jelentősen akadályozná, az elrendelő engedélyével az elektronikus adat megőrzéséről annak más információs rendszerbe vagy adathordozóra történő átmásolásával gondoskodhat. Az átmásolást követően a megőrzésre kötelezést elrendelő az eredeti elektronikus adatot tartalmazó információs rendszerre vagy adathordozóra a korlátozásokat részlegesen vagy teljesen feloldhatja.
(7) Ahhoz az elektronikus adathoz, amelyet a megőrzésre kötelezés érint, a kényszerintézkedés tartama alatt kizárólag a bíróság, az ügyészség vagy a nyomozó hatóság, valamint a megőrzésre kötelezést elrendelő engedélyével a megőrzésre kötelezett jogosult hozzáférni. Arról az elektronikus adatról, amelyet a megőrzésre kötelezés érint, a megőrzésre kötelezett az intézkedés tartama alatt csak az elrendelő engedélyével adhat más részére tájékoztatást.
(8) A megőrzésre kötelezett köteles haladéktalanul tájékoztatni a megőrzésre kötelezést elrendelőt, ha a megőrzésre kötelezéssel érintett elektronikus adatot jogosulatlanul megváltoztatták, törölték, megsemmisítették, továbbították, átmásolták, megismerték, vagy ezek megkísérlésére utaló jelet észlelt.
(9) Az elektronikus adat megőrzésére kötelezést követően a megőrzésre kötelezést elrendelő haladéktalanul megkezdi az elektronikus adatok átvizsgálását. Az átvizsgálás eredményeként a megőrzésre kötelezést elrendelő dönt a lefoglalás végrehajtása más módjának az elrendeléséről vagy a megőrzésre kötelezést megszünteti.
(10) A megőrzésre kötelezés legfeljebb három hónapig tart. A megőrzésre kötelezés megszűnik, ha a büntetőeljárást befejezték. A büntetőeljárás befejezéséről a megőrzésre kötelezettet tájékoztatni kell.

c) to establish the suspect's identity or actual location
required.
(4) From the date the decision is communicated to him, the person obliged to preserve is obliged to preserve the electronic data specified in the decision unchanged and – if necessary – separate it from other data files – ensure its safe storage. The party obliged to preserve the electronic data is obliged to prevent the alteration, deletion, destruction, transmission, unauthorized making of a copy of the electronic data or unauthorized access to it.
(5) The person ordering the retention obligation can provide the electronic data affected by the retention with an enhanced security electronic signature or electronic stamp based on a qualified or certified certificate.
(6) If the preservation of the electronic data in the original location would significantly hinder the data subject's activities related to the processing, management, storage or transmission of the electronic data, with the permission of the orderer, he may ensure the preservation of the electronic data by copying it to another information system or data carrier. After copying, the person ordering the retention obligation can partially or completely lift the restrictions on the information system or data carrier containing the original electronic data.
(7) During the period of the coercive measure, the electronic data affected by the obligation to preserve may only be accessed with the permission of the court, the prosecutor's office or the investigative authority, as well as the person who is obligated to preserve. During the duration of the measure, the party obliged to preserve can only provide information to others with the permission of the ordering party about the electronic data affected by the retention obligation.
(8) The person obliged to preserve must immediately inform the person ordering the preservation obligation if the electronic data affected by the preservation obligation has been changed, deleted, destroyed, forwarded, copied, made known without authorization, or if signs of such attempts have been detected.
(9) Following the obligation to preserve electronic data, the person ordering the obligation to preserve shall immediately begin scanning the electronic data. As a result of the inspection, the person ordering the retention obligation decides to order another way of executing the seizure or terminates the retention obligation.
(10) The retention obligation lasts for a maximum of three months. The obligation to preserve will cease when the criminal proceedings have been completed. The person obliged to preserve must be informed of the end of the criminal proceedings.

Section 317
The provisions on the redemption, sale and confiscation of the seized thing, as well as the termination and withholding of the seizure, must also be applied appropriately to electronic data.

(2) Obtainment and tracking of banking account data and traffic data

Chapter XXXVII Covert means subject to permission of a prosecutor **11**
Surveillance of payment transactions
Section 216[144]
(1) The organ authorised to use covert means may order, subject to the permission of the prosecution service, an organisation providing financial services or supplementary financial services as defined in the Act on credit institutions and financial undertakings (hereinafter "service provider"), to record, keep, and transmit data pertaining to payment transactions, as defined in the Act on providing payment services, to the ordering entity during a specified period.
(2) In particular, the surveillance of payment transactions may be aimed at the recording and transmission of data pertaining to a) all payment transactions relating to a payment account as defined in the Act on providing payment services, b) payment transactions meeting pre-determined criteria.
(3) The ordering entity may order the specified data to be transmitted without delay or within a set time limit.
(4) The surveillance of payment transactions may be ordered for a maximum period of three months, with the proviso that the surveillance period, subject to the permission of the prosecution service, may be extended once for an additional period of three months.
(5) The following shall be specified in a decision ordering the surveillance of payment transactions: a) data that are suitable for identifying the payment account concerned, b) the starting and finishing date, specified in days, of the surveillance of payment transactions, c) the exact scope of data to be transmitted, d) the applicable conditions, if the

[144] 217. § (1) A fizetési műveletek megfigyelése keretében az elrendelő előírhatja, hogy a szolgáltató meghatározott fizetési számlák vagy személyek közötti fizetési művelet vagy meghatározott feltételnek megfelelő fizetési művelet teljesítését függessze fel.
(2) A fizetési művelet teljesítésének a felfüggesztése az elrendelő tájékoztatásának napját követően legfeljebb négy munkanapig tarthat, amelyet az elrendelő az ügyészség engedélyével egy alkalommal legfeljebb három munkanappal meghosszabbíthat.
(3) Az elrendelő a fizetési művelet felfüggesztése alatt megvizsgálja, hogy a felfüggesztett fizetési művelet bűncselekménnyel összefüggésbe hozható-e. Ha a fizetési művelet felfüggesztésére nincs szükség, közli a szolgáltatóval, hogy a fizetési művelet teljesíthető. Ha a felfüggesztett fizetési művelet további nyomon követése szükséges, az elrendelő az ügyészség engedélyével más szolgáltató tekintetében is elrendeli a fizetési műveletek megfigyelését és ezután közli a szolgáltatóval, hogy a felfüggesztett fizetési művelet teljesíthető.
(4) Ha az elrendelő megállapítja, hogy a fizetési művelettel érintett számlapénz vagy elektronikus pénz tekintetében a lefoglalás vagy zár alá vétel elrendelésének a feltételei fennállnak, elrendeli a lefoglalást vagy a zár alá vételt.
(5) A szolgáltató akkor teljesítheti a felfüggesztett fizetési műveletet, ha
a) az elrendelő ezt engedélyezi, vagy
b) a (2) bekezdésben meghatározott időtartam lefoglalás vagy a zár alá vétel elrendelése nélkül eltelt.

ordering entity set any condition for recording or transmitting the data, e) the method of, and time limit for, transmitting the data.
(6) In the course of the surveillance of payment transactions, the service provider shall record and transmit the data specified in the ordering decision in the manner, and by the time limit, specified in the decision

Section 217[145]
(1) Within the framework of the surveillance of payment transactions, the ordering entity may also order a service provider to suspend the execution of payment transactions between certain payment accounts and persons, or payment transactions that meet certain conditions.
(2) The period of suspending the execution of payment transactions may last for up to four working days following the notification of the ordering organ; this period may be extended once by up to three working days subject to the permission of the prosecution service. Act XC of 2017 on the Code of Criminal Procedure (as in force on 1 March 2022) This document has been produced for informational purposes only.
(3) During the suspension of the payment transaction, the ordering entity shall examine whether the suspended payment transaction can be connected to a criminal offence. If the suspension of the payment transaction is unnecessary, the service provider shall be notified that the payment transaction may be executed. If further follow-up of a suspended payment transaction is necessary, the ordering entity, subject to the permission of the prosecution service, may also order other service providers to monitor the payment transactions, and then it shall notify the service provider that the suspended payment transaction may be executed.
(4) If the ordering entity establishes that the conditions for the seizure or sequestration of scriptural money or electronic money involved in the payment transaction are met, it shall order the seizure or sequestration.

[145] 217. § (1) A fizetési műveletek megfigyelése keretében az elrendelő előírhatja, hogy a szolgáltató meghatározott fizetési számlák vagy személyek közötti fizetési művelet vagy meghatározott feltételnek megfelelő fizetési művelet teljesítését függessze fel.
(2) A fizetési művelet teljesítésének a felfüggesztése az elrendelő tájékoztatásának napját követően legfeljebb négy munkanapig tarthat, amelyet az elrendelő az ügyészség engedélyével egy alkalommal legfeljebb három munkanappal meghosszabbíthat.
(3) Az elrendelő a fizetési művelet felfüggesztése alatt megvizsgálja, hogy a felfüggesztett fizetési művelet bűncselekménnyel összefüggésbe hozható-e. Ha a fizetési művelet felfüggesztésére nincs szükség, közli a szolgáltatóval, hogy a fizetési művelet teljesíthető. Ha a felfüggesztett fizetési művelet további nyomon követése szükséges, az elrendelő az ügyészség engedélyével más szolgáltató tekintetében is elrendeli a fizetési műveletek megfigyelését és ezután közli a szolgáltatóval, hogy a felfüggesztett fizetési művelet teljesíthető.
(4) Ha az elrendelő megállapítja, hogy a fizetési művelettel érintett számlapénz vagy elektronikus pénz tekintetében a lefoglalás vagy zár alá vétel elrendelésének a feltételei fennállnak, elrendeli a lefoglalást vagy a zár alá vételt.
(5) A szolgáltató akkor teljesítheti a felfüggesztett fizetési műveletet, ha
a) az elrendelő ezt engedélyezi, vagy
b) a (2) bekezdésben meghatározott időtartam lefoglalás vagy a zár alá vétel elrendelése nélkül eltelt.

(5) A service provider may execute a suspended payment transaction if a) permitted by the ordering entity, or b) the period specified in paragraph (2) passed without seizure or sequestration being ordered.

Section 218[146] (1) A service provider shall not inform any person about the surveillance of payment transactions, the content of the ordering decision, the content of data transfers completed, or the suspension of executing a payment transaction, and it shall ensure that such information is kept secret. If a person affected by the surveillance of payment transactions requests information concerning the processing of his own personal data, he shall be provided with information that does not reveal that his personal data were transferred for the surveillance of payment transactions. The service provider shall be advised about this provision when the surveillance of payment transactions is ordered.
(2) The restriction specified in paragraph (1) may remain in place until the preparatory proceeding or the investigation is completed unless the lifting of the restriction would jeopardise the success of another criminal proceeding conducted against the person concerned. The service provider shall be notified about the lifting of the restriction.

Ordering the seizure
Section 324[147]
(1) The seizure suspends the right of disposal over the subject of the seizure in order to ensure the confiscation of assets or civil rights claims.
(2) Purchase under lock and key may be ordered
a) to the matter,
b) for cash and electronic money,

[146] 218. § (1) A szolgáltató a fizetési műveletek megfigyelésének tényéről, az elrendelő határozatban foglaltakról, a teljesített adattovábbítás tartalmáról, valamint a fizetési művelet teljesítésének felfüggesztéséről másnak nem adhat tájékoztatást és köteles biztosítani, hogy mindezek titokban maradjanak. A fizetési műveletek megfigyelésével érintett személynek a saját személyes adatai kezelésére vonatkozó tájékoztatás iránti kérelme esetén olyan tájékoztatást kell adni, amelyből nem derül ki, hogy a személyes adatainak továbbítására a fizetési műveletek megfigyelésének céljából került sor. Erre a fizetési műveletek megfigyelésének elrendelésekor a szolgáltatót figyelmeztetni kell.
(2) Az (1) bekezdés szerinti korlátozás az előkészítő eljárás befejezéséig, illetve a nyomozás befejezéséig tarthat, kivéve, ha a korlátozás megszüntetése az érintettel szemben folytatott más büntetőeljárás eredményességét veszélyeztetné. A korlátozás megszüntetését a szolgáltatóval közölni kell.

[147] A zár alá vétel elrendelése
324. § (1) A zár alá vétel a vagyonelkobzás vagy a polgári jogi igény biztosítása érdekében a zár alá vétel tárgya feletti rendelkezési jogot függeszti fel.
(2) Zár alá vétel rendelhető el
a) a dologra,
b) a számlapénzre és az elektronikus pénzre,
c) a befektetési vállalkozásokról szóló törvényben meghatározott pénzügyi eszközre,
d) bármely más vagyoni értékű jogra, vagy
e) bármely más vagyoni jellegű követelésre [az a)–e) pont a továbbiakban együtt: vagyon].
(3) Zár alá vételt akkor lehet elrendelni, ha
a) az eljárás olyan bűncselekmény miatt folyik, amellyel kapcsolatban vagyonelkobzásnak van helye, vagy
b) annak célja polgári jogi igény biztosítása,
és megalapozottan lehet tartani attól, hogy a vagyonelkobzás végrehajtását, illetve a polgári jogi igény kielégítését meghiúsítják.
(4) Ha ingatlan elkobzásának van helye, a zár alá vételt el kell rendelni.

c) to the financial instrument specified in the Act on Investment Companies,
d) to any other right of property value, or
e) for any other claim of a property nature [items a)–e) hereinafter together: property].
(3) Foreclosure may be ordered if
a) the procedure is ongoing due to a crime in connection with which there is a reason for confiscation of assets, or
b) its purpose is to secure a civil claim,
and there is a well-founded fear that the execution of the asset confiscation and the satisfaction of the civil claim will be thwarted.
(4) If there is reason to confiscate real estate, it must be taken under lock and key.

Section 325
(1) In order to secure a civil claim, the private party may request the seizure of property owned by or belonging to the person charged or reasonably suspected of having committed the crime. The detention can also be ordered if the civil claim according to § 557 has been sent by the court to a court with jurisdiction and jurisdiction according to the Civil Procedure Act.
(2) For the purpose of securing a civil claim, detention before the indictment may be initiated by the victim if the victim has announced his intention to enforce the civil claim and the notification contains the provisions of § 556, paragraph (2). The trial court, prosecutor's office or investigative authority – in the event of an incomplete motion – informs the victim of this when presenting the motion for the order of detention.
(3) If the court ordered asset confiscation in the non-final decision or granted the civil claim, in order to ensure this – in the case of a civil claim, on the motion of the private party, otherwise ex officio – it may order a seizure until the final conclusion of the proceedings.

Section 326[148]
(1) Seizures ordered to ensure asset confiscation may also cover assets that cannot be subject to confiscation, if the sequestration serves to preserve these assets and their separation from the assets resulting from the commission of the crime is time-consuming.
(2) The seizure ordered pursuant to subsection (1) may last until the assets are separated, but for a maximum of three months.

[148] 326. § (1) A vagyonelkobzás biztosítása érdekében elrendelt zár alá vétel kiterjedhet olyan vagyonra is, amely nem képezheti vagyonelkobzás tárgyát, ha a zár alá vétel e vagyon megőrzését szolgálja és a bűncselekmény elkövetéséből eredő vagyontól történő elkülönítése időigényes.
(2) Az (1) bekezdés alapján elrendelt zár alá vétel a vagyon elkülönítéséig, de legfeljebb három hónapig tarthat.

Section 327[149]

(1) The court, the prosecutor's office, and the investigative authority order the arrest.

(2) Prior to the indictment, the court shall order detention if

a) its purpose is to secure a civil claim,

b) it affects the property defined in § 326, or

c) the value of the subject of the seizure exceeds HUF one hundred million.

(3) In the case of point a) of subsection (2), the victim may present his motion for detention before the indictment is filed with the prosecutor's office handling the case. The prosecutor's office immediately forwards the victim's motion together with the case documents to the court.

(4) In the case of points b) and c) of paragraph (2), the prosecutor's office makes a motion to order the arrest.

(5) If the court has the right to order detention and the adoption of the court decision necessary for the order would result in a delay that would significantly jeopardize the goal to be achieved by the detention, the prosecutor's office or the investigative authority may order detention pending the decision of the court. In such a case, the court's decision must be obtained immediately afterwards. If the arrest is not ordered by the court, it shall order the release of the arrest and take measures to implement it without delay.

(6) If, for taking under lock and key, the Civil Code. It was carried out in order to ensure the confiscation of assets specified in § 75 paragraph (1) or to secure a civil claim for

[149] 327. § (1) A zár alá vételt a bíróság, az ügyészség, illetve a nyomozó hatóság rendeli el.
(2) A vádemelés előtt a bíróság rendeli el a zár alá vételt, ha
a) annak célja a polgári jogi igény biztosítása,
b) az a 326. §-ban meghatározott vagyont érinti, vagy
c) a zár alá vétel tárgyának értéke a százmillió forintot meghaladja.
(3) A (2) bekezdés a) pontja esetén a sértett a zár alá vételre irányuló indítványát a vádemelés előtt az ügyben eljáró ügyészségnél terjesztheti elő. Az ügyészség a sértett indítványát az ügyiratokkal együtt haladéktalanul továbbítja a bíróságnak.
(4) A (2) bekezdés b) és c) pontja esetén az ügyészség tesz indítványt a zár alá vétel elrendelésére.
(5) Ha a zár alá vétel elrendelésére a bíróság jogosult és az elrendeléshez szükséges bírósági határozat meghozatala olyan késedelemmel járna, amely a zár alá vétellel elérni kívánt célt jelentősen veszélyeztetné, az ügyészség, illetve a nyomozó hatóság a bíróság döntéséig elrendelheti a zár alá vételt. Ilyen esetben a bíróság határozatát utólag haladéktalanul be kell szerezni. Ha a zár alá vételt a bíróság nem rendeli el, a zár alá vétel feloldásáról rendelkezik és késedelem nélkül intézkedik annak végrehajtása iránt.
(6) Ha a zár alá vételre a Btk. 75. § (1) bekezdésében meghatározott vagyonelkobzás biztosítása vagy kártérítésre, illetve pénz fizetésére irányuló polgári jogi igény biztosítása érdekében került sor, a határozat rendelkező részében ennek tényét, valamint a zár alá vétellel biztosított összeget is fel kell tüntetni. Ha a vagyon részeinek zár alá vételére több eltérő okból került sor, ezeket az adatokat a zár alá vett vagyon valamennyi része tekintetében fel kell tüntetni a határozatban.
(7) Ha a zár alá vételre a Btk. 75. § (1) bekezdésében meghatározott vagyonelkobzás biztosítása vagy kártérítésre, illetve pénz fizetésére irányuló polgári jogi igény biztosítása érdekében került sor, de a (6) bekezdésben foglaltakat a zár alá vételről rendelkező határozat nem tartalmazza, a zár alá vétel elrendelésére jogosult
a) ügyészség vagy nyomozó hatóság a 366. § megfelelő alkalmazásával, vagy
b) a bíróság a vádemelés előtt az ügyészség, a terhelt, továbbá ha a sértett zár alá vételt indítványozott, a sértett, valamint a vagyoni érdekelt és a jogszabály alapján a bűnügyi hitelezői igény képviseletére jogosult egyéb érdekelt indítványára, a vádemelés után hivatalból
a (6) bekezdésnek megfelelően határoz a zár alá vételről rendelkező határozat megváltoztatásáról.
(8) A (6) és (7) bekezdés szerinti határozatokat haladéktalanul kézbesíteni kell a vagyoni érdekeltnek, valamint a jogszabály alapján a bűnügyi hitelezői igény képviseletére jogosult egyéb érdekeltnek is.

compensation or payment of money, the fact of this, as well as the amount secured by the seizure, must be stated in the operative part of the decision. If parts of the property were frozen for several different reasons, these data must be included in the decision for all parts of the frozen property.
(7) If, for taking under lock and key, the Civil Code. It was carried out in order to ensure the confiscation of property specified in paragraph (1) of Section 75 or to secure a civil claim for compensation or payment of money, but the provisions of paragraph (6) are not included in the decision on seizure, the person entitled to order the seizure
a) prosecutor's office or investigative authority with the appropriate application of § 366, or
b) before the indictment, the court, upon the motion of the prosecution, the defendant, and if the victim has requested to be locked up, upon the motion of the victim and the property interested party, ex officio after the indictment
decides in accordance with paragraph (6) on supplementing the decision on the closure.

dd. Para 1(d) Freezing instrumentalities or proceeds of crime, including assets

The court, the public prosecutor, or the investigating authority order the seizure.

12 Only the court has the competence to order the seizure of means of evidence containing the protected data relating to the activities of a notary or a lawyer held in the office of a notary or a lawyer.

13 Prior to the formal accusation being filed, the public prosecutor shall order the seizure and the court shall order seizure afterwards, if the subject of the seizure is:

- a postal or other sealed mail not yet delivered to the addressee, or
- a communication or mail to be transmitted to the addressee by means of an electronic communications service which has not yet been forwarded; or

an item of evidence held in the editorial offices of a media content provider in connection with that activity. So, the cited procedure of the Hungarian CPC Procedure also applies to the investigation phase.

Detention of the seized thing
Section 323[150]
(1) The thing to be released to the accused may be withheld to secure the fine, confiscation of property or criminal costs imposed against him, this must be provided for in the final decision.
(2) In the event of termination of the seizure, the thing to be issued to the defendant may be withheld at the request of the private party to secure the civil rights claim, and this must be provided for in the final decision.
(3) The withholding for the securing of the civil claim shall be terminated if the private party has not requested enforcement within two months of the expiry of the established performance deadline, or in the case of other legal means of enforcement of the civil claim, within two months of the request for a security measure in the civil suit did not submit an application.

ee. Para 1(e) Interception of electronic communications to and from the suspect or accused person

The Interception of electronic communications to and from the suspect or accused person in Hungary may be achieved via the secret investigation measures, which are stipulated by the CPC.[151] The term for these measures is hidden devices (*leplezett eszközök*). The general rules of the CPC define that hidden devices may already be used in preparatory proceedings: **14**

Section 36[152]
(1) Bodies defined in this law authorised to use covert devices may also act in the preparatory procedure.
(2) In the management of things or electronic data seized for the purpose of confiscation and asset confiscation, as well as seized assets (hereinafter together: criminal assets), as

[150] A lefoglalt dolog visszatartása
323. § (1) A terheltnek kiadandó dolgot a vele szemben megállapított pénzbüntetés, vagyonelkobzás vagy bűnügyi költség biztosítására vissza lehet tartani, erről az ügydöntő határozatban kell rendelkezni.
(2) A lefoglalás megszüntetése esetén a terheltnek kiadandó dolgot a polgári jogi igény biztosítására a magánfél indítványára vissza lehet tartani, erről az ügydöntő határozatban kell rendelkezni.
(3) A polgári jogi igény biztosítását szolgáló visszatartást meg kell szüntetni, ha a magánfél a megállapított teljesítési határidő lejártától számított két hónapon belül nem kért végrehajtást, illetve a polgári jogi igény érvényesítésének egyéb törvényes útra utasítása esetén két hónapon belül a polgári perben biztosítási intézkedés iránti kérelmet nem nyújtott be.
[151] See Sára Borbála Dobó, A lehallgatás szabályozása az osztrák büntetőeljárásjogi törvényben, Corvinak, 13 March 2023.
[152] VI. FejezetA Büntetőeljárásban Eljáró Egyéb Szervek
36. § (1) Az előkészítő eljárásban a leplezett eszközök alkalmazására feljogosított e törvényben meghatározott szervek is eljárhatnak.
(2) Az elkobzás és a vagyonelkobzás érdekében lefoglalt dolog vagy elektronikus adat, illetve a zár alá vett vagyon (a továbbiakban együtt: bűnügyi vagyon), illetve a lefoglalt bizonyítási eszköz kezelésében a bűnjel és a bűnügyi vagyon kezeléséért felelős szerv törvényben meghatározottak szerint közreműködik.
(3) A nyomozó hatóság tagjának kizárására vonatkozó rendelkezéseket kell alkalmazni a büntetőeljárásban eljáró egyéb szervek tagjának kizárására is.

well as seized evidence, the body responsible for the management of crime signs and criminal assets participates in accordance with the law.
(3) The provisions concerning the exclusion of a member of the investigative authority shall also be applied to the exclusion of a member of other bodies acting in criminal proceedings.

15 The provisions in Chapter XXXV. And Chapter XXXVI. distinguish the measures by their requirements, either an authorisation by a judge is needed or a licence from a prosecutor is sufficient.

PART SIX Hidden Devices
XXXV. Chapter General Rules for the use of concealed devices
Section 214[153]
(1) The use of concealed devices is a special activity in criminal proceedings involving the limitation of fundamental rights related to the inviolability of a private residence and the protection of privacy, correspondence and personal data, which is carried out by the authorized bodies without the knowledge of the person concerned.
(2) The bodies authorized to do so may use covert devices for the purpose of carrying out their law enforcement duties as defined in the legislation applicable to them, only on the basis of the rules defined in this Act.
(3) Subsection (2) does not affect the collection of secret information carried out by the national security services and the anti-terrorism body of the police for the purpose of carrying out their law enforcement duties based on the law on national security services.
(4) In criminal proceedings
a) not subject to a judge's or prosecutor's license,
b) subject to a prosecutor's license, as well as

[153] Hatodik Részleplezett Eszközök
XXXV. FejezetA Leplezett Eszközök Alkalmazásának Általános Szabályai
214. § (1) A leplezett eszközök alkalmazása olyan, a magánlakás sérthetetlenségéhez, valamint a magántitok, a levéltitok és a személyes adatok védelméhez fűződő alapvető jogok korlátozásával járó, a büntetőeljárásban végzett különleges tevékenység, amelyet az erre feljogosított szervek az érintett tudta nélkül végeznek.
(2) Leplezett eszközöket az erre feljogosított szervek a rájuk vonatkozó jogszabályokban meghatározott bűnüldözési feladataik végrehajtása céljából kizárólag az e törvényben meghatározott szabályok alapján alkalmazhatnak.
(3) A (2) bekezdés nem érinti a nemzetbiztonsági szolgálatok és a rendőrség terrorizmust elhárító szerve által a nemzetbiztonsági szolgálatokról szóló törvény alapján bűnüldözési feladataik végrehajtása céljából folytatott titkos információgyűjtést.
(4) A büntetőeljárásban
a) bírói vagy ügyészi engedélyhez nem kötött,
b) ügyészi engedélyhez kötött, valamint
c) bírói engedélyhez kötött
leplezett eszközök alkalmazhatók.
(5) Leplezett eszköz akkor alkalmazható, ha
a) megalapozottan feltehető, hogy a megszerezni kívánt információ, illetve bizonyíték a büntetőeljárás céljának eléréséhez elengedhetetlenül szükséges és más módon nem szerezhető meg,
b) annak alkalmazása nem jár az azzal érintett vagy más személy alapvető jogának az elérendő bűnüldözési célhoz képest aránytalan korlátozásával, és
c) annak alkalmazásával bűncselekménnyel összefüggő információ, illetve bizonyíték megszerzése valószínűsíthető.

c) subject to judicial permission
covert devices can be used.
(5) Concealed device can be used if
a) it can be reasonably assumed that the information or evidence to be obtained is absolutely necessary to achieve the goal of the criminal proceedings and cannot be obtained in any other way,
b) its application does not result in a disproportionate restriction of the fundamental right of the person affected by it or of another person in relation to the law enforcement goal to be achieved, and
c) it is likely to obtain information or evidence related to a crime by using it.

XXXVI. Chapter Concealed Devices, which do not require for judge and prosecutor authorization
Section 215[154]
(1) The body authorized to use covert means may use a person who cooperates secretly in order to obtain information about the crime.
(2) A member of the body authorized to use covert means may collect and check information on the crime while keeping the true purpose of the procedure a secret.

[154] XXXVI. Fejezet Bírói És Ügyészi Engedélyhez Nem Kötött Leplezett Eszközök
215. § (1) A leplezett eszközök alkalmazására feljogosított szerv a bűncselekményre vonatkozó információk megszerzése érdekében titkosan együttműködő személyt vehet igénybe.
(2) A leplezett eszközök alkalmazására feljogosított szerv tagja az eljárás valódi céljának titokban tartásával a bűncselekményre vonatkozó információt gyűjthet, ellenőrizhet.
(3) A leplezett eszközök alkalmazására feljogosított szerv a bűncselekmény megszakítása, a bűncselekmény elkövetőjének azonosítása, illetve a bizonyítás érdekében sérülést vagy egészségkárosodást nem okozó csapdát alkalmazhat.
(4) A leplezett eszközök alkalmazására feljogosított szerv tagja a bűncselekmény megszakítása, a bűncselekmény elkövetőjének azonosítása, illetve a bizonyítás érdekében a sértettet vagy más személyt az életének és testi épségének megóvása céljából helyettesítheti.
(5) A leplezett eszközök alkalmazására feljogosított szerv a bűncselekménnyel kapcsolatba hozható
a) személyt, lakást, egyéb helyiséget, bekerített helyet, nyilvános vagy a közönség részére nyitva álló helyet, illetve járművet, vagy
b) tárgyi bizonyítási eszközt képező dolgot
titokban megfigyelhet, a történtekről információt gyűjthet, valamint az észlelteket technikai eszközzel rögzítheti (a továbbiakban: rejtett figyelés).
(6) A rejtett figyelés érdekében a leplezett eszközök alkalmazására feljogosított szerv titkosan együttműködő személyt is igénybe vehet.
(7) A leplezett eszközök alkalmazására feljogosított szerv a bűncselekmény megszakítása, a bűncselekmény elkövetőjének azonosítása, illetve a bizonyítás érdekében az információ forrásának leplezésével a leplezett eszköz alkalmazásával érintett személlyel valótlan vagy megtévesztő információt közölhet. Az információ továbbításához a leplezett eszközök alkalmazására feljogosított szerv titkosan együttműködő személyt is igénybe vehet.
(8) A (7) bekezdésben meghatározott leplezett eszköz
a) terhelt vagy tanú kihallgatása, illetve bizonyítási cselekmény során nem alkalmazható,
b) nem tartalmazhat a törvénnyel össze nem egyeztethető ígéretet, és
c) nem valósíthat meg fenyegetést vagy felbujtást, továbbá nem terelheti az érintett személyt annál súlyosabb bűncselekmény elkövetése felé, mint amelyet eredetileg elkövetni tervezett.
(9) A leplezett eszközök alkalmazására feljogosított szerv a bűncselekmény megszakítása, a bűncselekmény elkövetőjének azonosítása, illetve a bizonyítás érdekében elektronikus hírközlő hálózat vagy eszköz útján, illetve információs rendszeren folytatott kommunikáció tényének a megállapításához, az elektronikus hírközlő eszköz vagy információs rendszer azonosításához, illetve hollétének megállapításához szükséges adatokat titokban technikai eszközzel megszerezheti.

(3) A body authorized to use covert devices may use a trap that does not cause injury or damage to health in order to interrupt the crime, identify the perpetrator of the crime, or to prove it.
(4) A member of a body authorized to use covert means may replace the victim or another person in order to prevent the crime, to identify the perpetrator of the crime, or to prove it, in order to protect his life and physical integrity.
(5) A body authorized to use covert means may be associated with the crime
a) person, apartment, other premises, fenced place, public place or place open to the public, or vehicle, or
b) things that constitute material evidence
you can observe secretly, collect information about what happened, and record what you observed with a technical device (hereinafter: hidden monitoring).
(6) For the purpose of covert monitoring, the body authorized to use covert devices may use a secretly cooperating person.
(7) In order to interrupt the crime, identify the perpetrator of the crime, and to prove it, the body authorized to use covert devices may communicate untrue or misleading information to the person affected by the use of the covert device by concealing the source of the information. For the transmission of information, a body authorized to use covert means may also use a secretly cooperating person.
(8) The hidden device defined in paragraph (7).
a) cannot be used during the questioning of an accused or a witness, or during an evidentiary act,
b) may not contain a promise inconsistent with the law, and
c) may not carry out threats or incitement, and may not lead the person concerned to commit a more serious crime than the one he originally planned to commit.
(9) The body authorized to use covert devices for the purpose of interrupting the crime, identifying the perpetrator of the crime, and establishing the fact of communication via an electronic communication network or device or information system in order to prove it, to identify the electronic communication device or information system, or its whereabouts the data necessary for its determination can be secretly obtained by technical means.

16 The next part describes the provisions, which require a court authorisation before they can be used to gather evidence. They concern hidden services, which inflict the accused's right intensively and therefore require protection of the personal data:

XXXVIII. Chapter Covered Devices Required to Court Authorization

Section 231[155] The following concealed devices subject to a judicial license may be used in criminal proceedings:

a) secret monitoring of an information system,

b) secret research,

c) secret surveillance of a place,

d) secret knowledge of consignment,

e) wiretapping.

Section 232[156] (1) During the secret monitoring of an information system, a body authorized to use covert devices may, with the permission of a judge, secretly learn about

[155] A leplezett eszközök alkalmazása során megszerzett adatok bizalmassága
247. § (1) A leplezett eszközök alkalmazásának engedélyezése, végrehajtása, illetve az annak eredményeként keletkezett adatok felhasználása során gondoskodni kell arról, hogy az intézkedések és az adatok illetéktelen személy számára ne váljanak hozzáférhetővé vagy megismerhetővé.
(2) Az (1) bekezdésben meghatározott követelmény érvényesítéséért az ügyben eljáró leplezett eszközök alkalmazására feljogosított szerv, ügyészség és bíróság felelős.
(3) Az (1) bekezdésben meghatározott követelmény érvényesítése érdekében a leplezett eszközök alkalmazására feljogosított szerv, az ügyészség vagy a bíróság, ha annak feltételei fennállnak, a leplezett eszközök alkalmazásával összefüggő adatokat a minősített adat védelméről szóló törvényben meghatározott szabályok szerint minősítéssel védheti.

[156] § 232. (1) During the secret monitoring of an information system, a body authorized to use covert devices may, with the permission of a judge, secretly learn about the data managed in the information system, and may record the detected data with a technical device. To this end, the necessary electronic data in the information system, and the necessary technical device – with the exception of places open to the public or the public – in apartments, other rooms, fenced areas, and – with the exception of public transport – in vehicles, and the person concerned can be placed in an object in use.
(2) In the course of a secret search, with the judicial permission of a body authorized to use covert devices, – with the exception of a public place or a place open to the public – an apartment, other premises, a fenced place, or – with the exception of a means of public transport – a vehicle, as well as a vehicle used by the person concerned you can secretly search an object and record what you find with a technical device.
(3) During the secret surveillance of a place, with the permission of a judge, a body authorized to use covert devices may – with the exception of places open to the public or the public – secretly observe what is happening in the apartment, other premises, fenced areas, or – with the exception of public transport – on a vehicle with a technical device and you can record it. To this end, the necessary technical device can be placed at the place of application.
(4) During the secret examination of a shipment, a body authorized to use covert devices may, with the permission of a judge, secretly open a postal item or other sealed item, learn about its contents, check and record it.
(5) During eavesdropping, a body authorized to use covert devices may, with judicial permission, secretly learn and record the content of communications carried out via an electronic communication network or device, or information system within the framework of an electronic communication service.
§ 233. (1) The technical device used during the use of a covert device subject to judicial permission or electronic data placed in an information system must be removed immediately after the use of the covert device has ended. If the removal encounters an obstacle, the technical device or electronic data must be removed immediately after the obstacle is removed.
(2) In order to place and remove the technical device or data used during the application of the covert device subject to judicial permission
a) a body authorized to use concealed devices may use a concealed device that is not subject to judicial permission, or
b) the body implementing the use of covert devices may collect secret information based on the applicable law.
Section 234 (1) Concealed devices subject to a judicial license may be used in the event of an intentional crime punishable by imprisonment of up to five years or more.
(2) Concealed devices subject to a judicial license may also be used in the following intentional crimes punishable by imprisonment of up to three years:
a) the crime committed as a business or in a criminal association,

the data managed in the information system, and may record the detected data with a technical device. To this end, the necessary electronic data in the information system, and the necessary technical device – with the exception of places open to the public or the public – in apartments, other rooms, fenced areas, and – with the exception of public transport – in vehicles, and the person concerned can be placed in an object in use.
(2) In the course of a secret search, with the judicial permission of a body authorized to use covert devices, – with the exception of a public place or a place open to the public – an apartment, other premises, a fenced place, or – with the exception of a means of public transport – a vehicle, as well as a vehicle used by the person concerned you can secretly search an object and record what you find with a technical device.
(3) During the secret surveillance of a place, with the permission of a judge, a body authorized to use covert devices may – with the exception of places open to the public or the public – secretly observe what is happening in the apartment, other premises, fenced areas, or – with the exception of public transport – on a vehicle with a technical device and you can record it. To this end, the necessary technical device can be placed at the place of application.
(4) During the secret examination of a shipment, a body authorized to use covert devices may, with the permission of a judge, secretly open a postal item or other sealed item, learn about its contents, check and record it.
(5) During eavesdropping, a body authorized to use covert devices may, with judicial permission, secretly learn and record the content of communications carried out via an electronic communication network or device, or information system within the framework of an electronic communication service.

Section 233[157] (1) The technical device used during the use of a covert device subject to judicial permission or electronic data placed in an information system must be

b) abuse of drug precursors, falsification of medicines, abuse of performance-enhancing substances, falsification of health products,
c) sexual abuse, fencing, promotion of prostitution, persistence, exploitation of child prostitution, child pornography,
d) environmental damage, nature damage, poaching, organization of illegal animal fighting, violation of waste management regulations,
e) with the exception of breaking the lock, crimes against the administration of justice,
f) corruption crimes, with the exception of the failure to report the corruption crime,
g) crimes against the order of elections, referendums and European citizens' initiatives, illegal employment of third-country nationals, organization of illegal gambling,
h) insider trading and illicit market influence.
(3) Concealed devices subject to a judicial license are also used in cases of intentional misuse of classified data, abuse of office, violence against an official, violence against an internationally protected person, counterfeiting of a cash-substitute payment instrument, unauthorized financial activity and the organization of a pyramid scheme. are applicable.
(4) If the Civil Code punishes the preparation of the crime, concealed devices subject to a judicial license can also be used in criminal proceedings initiated for the preparation of the crimes specified in subsections (1)–(3).
[157] 233. § (1) A bírói engedélyhez kötött leplezett eszköz alkalmazása során igénybe vett technikai eszközt vagy információs rendszerben elhelyezett elektronikus adatot a leplezett eszköz alkalmazásának befejezését követően

removed immediately after the use of the covert device has ended. If the removal encounters an obstacle, the technical device or electronic data must be removed immediately after the obstacle is removed.
(2) In order to place and remove the technical device or data used during the application of the covert device subject to judicial permission
a) a body authorized to use concealed devices may use a concealed device that is not subject to judicial permission, or
b) the body implementing the use of covert devices may collect secret information based on the applicable law.

Section 234[158] (1) Concealed devices subject to a judicial license may be used in the event of an intentional crime punishable by imprisonment of up to five years or more.
(2) Concealed devices subject to a judicial license may also be used in the following intentional crimes punishable by imprisonment of up to three years:
a) the crime committed as a business or in a criminal association,
b) abuse of drug precursors, falsification of medicines, abuse of performance-enhancing substances, falsification of health products,
c) sexual abuse, fencing, promotion of prostitution, persistence, exploitation of child prostitution, child pornography,

haladéktalanul el kell távolítani. Ha az eltávolítás akadályba ütközik, a technikai eszközt vagy az elektronikus adatot az akadály megszűnését követően kell haladéktalanul eltávolítani.
(2) A bírói engedélyhez kötött leplezett eszköz alkalmazása során igénybe vett technikai eszköz vagy adat elhelyezése, valamint eltávolítása érdekében
a) a leplezett eszközök alkalmazására feljogosított szerv bírói engedélyhez nem kötött leplezett eszközt alkalmazhat, illetve
b) a leplezett eszközök alkalmazását végrehajtó szerv a rá irányadó törvény alapján titkos információgyűjtést végezhet.

[158] 234. § (1) A bírói engedélyhez kötött leplezett eszközök az öt évig terjedő vagy ennél súlyosabb szabadságvesztéssel büntetendő szándékos bűncselekmény esetén alkalmazhatók.
(2) A bírói engedélyhez kötött leplezett eszközök a három évig terjedő szabadságvesztéssel büntetendő, szándékosan elkövetett következő bűncselekmények esetén is alkalmazhatók:
a) az üzletszerűen vagy bűnszövetségben elkövetett bűncselekmény,
b) a kábítószer-prekurzorral visszaélés, a gyógyszerhamisítás, a teljesítményfokozó szerrel visszaélés, az egészségügyi termék hamisítása,
c) a szexuális visszaélés, a kerítés, a prostitúció elősegítése, a kitartottság, a gyermekprostitúció kihasználása, a gyermekpornográfia,
d) a környezetkárosítás, a természetkárosítás, az orvvadászat, a tiltott állatviadal szervezése, a hulladékgazdálkodás rendjének megsértése,
e) a zártörés kivételével az igazságszolgáltatás elleni bűncselekmények,
f) a korrupciós bűncselekmény feljelentésének elmulasztása kivételével a korrupciós bűncselekmények,
g) a választás, népszavazás és európai polgári kezdeményezés rendje elleni bűncselekmény, a harmadik országbeli állampolgár jogellenes foglalkoztatása, a tiltott szerencsejáték szervezése,
h) a bennfentes kereskedelem és a tiltott piacbefolyásolás.
(3) Bírói engedélyhez kötött leplezett eszközök a szándékosan elkövetett minősített adattal visszaélés, a hivatali visszaélés, a hivatalos személy elleni erőszak, a nemzetközileg védett személy elleni erőszak, a készpénzhelyettesítő fizetési eszköz hamisítása, a jogosulatlan pénzügyi tevékenység és a piramisjáték szervezése esetén is alkalmazhatók.
(4) Ha a Btk. a bűncselekmény előkészületét büntetni rendeli, a bírói engedélyhez kötött leplezett eszközök az (1)–(3) bekezdésben meghatározott bűncselekmények előkészülete miatt indult büntetőeljárásban is alkalmazhatók.

d) environmental damage, nature damage, poaching, organization of illegal animal fighting, violation of waste management regulations,
e) with the exception of breaking the lock, crimes against the administration of justice,
f) corruption crimes, with the exception of the failure to report the corruption crime,
g) crimes against the order of elections, referendums and European citizens' initiatives, illegal employment of third-country nationals, organization of illegal gambling,
h) insider trading and illicit market influence.
(3) Concealed devices subject to a judicial license are also used in cases of intentional misuse of classified data, abuse of office, violence against an official, violence against an internationally protected person, counterfeiting of a cash-substitute payment instrument, unauthorized financial activity and the organization of a pyramid scheme. are applicable.
(4) If the Civil Code punishes the preparation of the crime, concealed devices subject to a judicial license can also be used in criminal proceedings initiated for the preparation of the crimes specified in subsections (1)–(3).

Concealed device authorization subject to judicial authorization
Section 235[159] (1) Concealed devices subject to a judicial license may be used based on the license of the court, within the framework defined therein.
(2) The permission of the court determines which concealed device subject to judicial permission can be used against the person concerned.
(3) The court
a) you can extend your license,
b) may revoke his license,
c) you can extend your license to an additional concealed device, or
d) may prohibit the further use of an already authorized covert device.

Duration of application and extension of application
Section 239[160] (1) The use of concealed devices subject to a judicial license may be permitted for a maximum of *ninety days*, which may be extended for a maximum of ninety days on occasion.

[159] A bírói engedélyhez kötött leplezett eszközök engedélyezése
235. § (1) A bírói engedélyhez kötött leplezett eszközök a bíróság engedélye alapján, az abban meghatározott keretek között alkalmazhatók.
(2) A bíróság engedélye meghatározza, hogy az érintett személlyel szemben mely bírói engedélyhez kötött leplezett eszköz alkalmazható.
(3) A bíróság
a) az engedélyét meghosszabbíthatja,
b) az engedélyét visszavonhatja,
c) az engedélyét további leplezett eszközre kiterjesztheti, illetve
d) a már engedélyezett leplezett eszköz további alkalmazását megtilthatja.
[160] Az alkalmazás tartama és az alkalmazás meghosszabbítása
239. § (1) A bírói engedélyhez kötött leplezett eszközök alkalmazása legfeljebb kilencven napra engedélyezhető, amely alkalmanként legfeljebb kilencven nappal meghosszabbítható.

(2) In criminal proceedings, the use of covert devices subject to a judicial authorization against the person concerned may be permitted for a total of three hundred and sixty days.
(3) If the use of concealed devices against the person concerned is terminated in the criminal proceedings, and the use of concealed devices is subsequently permitted again, the time of use of the concealed devices must be added up and the duration specified in paragraph (2) must be calculated accordingly.

Confidentiality of data obtained during the use of hidden devices
Section 247[161] (1) When authorizing and implementing the use of covert devices and using the resulting data, it must be ensured that the measures and data do not become accessible or known to unauthorized persons.
(2) The body authorized to use covert means acting in the case, the prosecutor's office and the court are responsible for enforcing the requirement specified in paragraph (1).
(3) In order to enforce the requirement defined in paragraph (1), the body authorized to use covert devices, the prosecution or the court, if the conditions are met, may protect the data related to the use of covert devices by classifying them in accordance with the rules defined in the Act on the Protection of Classified Data.

Section 248 (1) If the data related to the use of the covert device has been classified by the body authorized to use the covert devices according to the rules defined in the Act on the Protection of Classified Data, the review according to the law must be carried out immediately after the use of the covert device has been terminated, and then every two years.
(2) If data related to the use of a concealed device are treated as classified data in criminal proceedings, the court, the prosecutor's office, or the investigative authority may initiate a review or review of the classification.

For real **interception rules** for the bodies that operate telecommunication services and must grant interception or enable prosecution to do so the CPC does not apply, but the Law on interception into telecommunication means applies. **17**

(2) A büntetőeljárásban az érintett személlyel szemben bírói engedélyhez kötött leplezett eszközök alkalmazása összesen háromszázhatvan napig engedélyezhető.
(3) Ha a büntetőeljárásban az érintett személlyel szemben a leplezett eszközök alkalmazását megszüntetik, és ezt követően a leplezett eszközök alkalmazását ismételten engedélyezik, a leplezett eszközök alkalmazásának idejét össze kell adni és a (2) bekezdésben meghatározott tartamot ennek megfelelően kell számítani.
[161] 248. § (1) Ha a leplezett eszköz alkalmazásával kapcsolatos adatokat a leplezett eszközök alkalmazására feljogosított szerv a minősített adat védelméről szóló törvényben meghatározott szabályok szerint minősítette, a törvény szerinti felülvizsgálatot a leplezett eszköz alkalmazásának megszüntetését követően haladéktalanul, azután kétévente el kell végezni.
(2) Ha a leplezett eszköz alkalmazásával kapcsolatos adatokat a büntetőeljárásban minősített adatként kezelik, a bíróság, az ügyészség, illetve a nyomozó hatóság kezdeményezheti a minősítés felülvizsgálatát vagy felülbírálatát.

ff. Para 1(f) Tracking & Tracing an Object

18 The tracking and tracing of an object is not adressed by section 282 CPC, which concentrate on pre-trail detention situations, but by section 215 et seq:

Chapter XXXVI Covert means not subject to permission of a judge or a prosecutor
Section 215[162]
(1) The organ authorised to use covert means may use persons cooperating in secret to acquire information regarding a criminal offence.
(2) A member of the organ authorised to use covert means may collect and verify information relating to a criminal offence while keeping the actual purpose of his proceeding secret.
(3) The organ authorised to use covert means may use a trap not causing injury or damaging health to interrupt a criminal offence, identify the perpetrator of a criminal offence, or take evidence.
(4) A member of the organ authorised to use covert means may, to interrupt a criminal offence, identify the perpetrator of a criminal offence, or take evidence, replace an aggrieved party or another person to protect his life and physical integrity.

[162] XXXVI. Fejezet Bírói És Ügyészi Engedélyhez Nem Kötött Leplezett Eszközök
215. § (1) A leplezett eszközök alkalmazására feljogosított szerv a bűncselekményre vonatkozó információk megszerzése érdekében titkosan együttműködő személyt vehet igénybe.
(2) A leplezett eszközök alkalmazására feljogosított szerv tagja az eljárás valódi céljának titokban tartásával a bűncselekményre vonatkozó információt gyűjthet, ellenőrizhet.
(3) A leplezett eszközök alkalmazására feljogosított szerv a bűncselekmény megszakítása, a bűncselekmény elkövetőjének azonosítása, illetve a bizonyítás érdekében sérülést vagy egészségkárosodást nem okozó csapdát alkalmazhat.
(4) A leplezett eszközök alkalmazására feljogosított szerv tagja a bűncselekmény megszakítása, a bűncselekmény elkövetőjének azonosítása, illetve a bizonyítás érdekében a sértettet vagy más személyt az életének és testi épségének megóvása céljából helyettesítheti.
(5) A leplezett eszközök alkalmazására feljogosított szerv a bűncselekménnyel kapcsolatba hozható
a) személyt, lakást, egyéb helyiséget, bekerített helyet, nyilvános vagy a közönség részére nyitva álló helyet, illetve járművet, vagy
b) tárgyi bizonyítási eszközt képező dolgot
titokban megfigyelhet, a történtekről információt gyűjthet, valamint az észlelteket technikai eszközzel rögzítheti (a továbbiakban: rejtett figyelés).
(6) A rejtett figyelés érdekében a leplezett eszközök alkalmazására feljogosított szerv titkosan együttműködő személyt is igénybe vehet.
(7) A leplezett eszközök alkalmazására feljogosított szerv a bűncselekmény megszakítása, a bűncselekmény elkövetőjének azonosítása, illetve a bizonyítás érdekében az információ forrásának leplezésével a leplezett eszköz alkalmazásával érintett személlyel valótlan vagy megtévesztő információt közölhet. Az információ továbbításához a leplezett eszközök alkalmazására feljogosított szerv titkosan együttműködő személyt is igénybe vehet.
(8) A (7) bekezdésben meghatározott leplezett eszköz
a) terhelt vagy tanú kihallgatása, illetve bizonyítási cselekmény során nem alkalmazható,
b) nem tartalmazhat a törvénnyel össze nem egyeztethető ígéretet, és
c) nem valósíthat meg fenyegetést vagy felbujtást, továbbá nem terelheti az érintett személyt annál súlyosabb bűncselekmény elkövetése felé, mint amelyet eredetileg elkövetni tervezett.
(9) A leplezett eszközök alkalmazására feljogosított szerv a bűncselekmény megszakítása, a bűncselekmény elkövetőjének azonosítása, illetve a bizonyítás érdekében elektronikus hírközlő hálózat vagy eszköz útján, illetve információs rendszeren folytatott kommunikáció tényének a megállapításához, az elektronikus hírközlő eszköz vagy információs rendszer azonosításához, illetve hollétének megállapításához szükséges adatokat titokban technikai eszközzel megszerezheti.

(5) The organ authorised to use covert means may covertly surveil a) a person, home, other room, fenced area, public area, premises open to the public, or vehicle, or b) an object serving as means of physical evidence, that are associated with the criminal offence, and it may collect information on events taking place, and it may use technical means to record such events (hereinafter "covert surveillance"). (6) For the purpose of covert surveillance, the organ authorised to use covert means may also use persons cooperating in secret.
(7) The organ authorised to use covert means may, to interrupt a criminal offence, identify the perpetrator of a criminal offence, or take evidence, disclose false or misleading information to the person involved in the use of covert means by concealing the source of information. The organ authorised to use covert means may also use persons cooperating in secret to transfer such information.
(8) A covert means referred to in paragraph (7) may not a) be used during the interrogation of a defendant or witness or during an evidentiary act, b) contain any promise that is inconsistent with the law, or c) constitute a threat or instigation, and it may not drive the person concerned towards the commission of a criminal offence, the gravity of which is greater than that of the criminal offence he initially planned to commit.

d) Para 2: Specific restrictions in national law that apply with regard to certain categories of persons or professionals with an LLP obligation, Art. 29

Without prejudice to Article 29, the investigation measures set out in paragraph 1 of this Article may be subject to conditions in accordance with the applicable national law if the national law contains specific restrictions that apply with regard to certain categories of persons or professionals who are legally bound by an obligation of confidentiality.

Hungary would align with this requisite as the production of documents and stored computer data requires judicial approval. Defence counsel's communications and privileged information cannot be seized (see s. 310) and see above → Lifting privileges or immunities in cases of Art. 29 para 1 and 2.

e) Para 3: Conditions/Thresholds for investigation measures

The investigation measures set out in points(c), (e) and (f) of paragraph 1 of this Article may be subject to further conditions, including limitations, provided for in the applicable national law. In particular, Member States may limit the application of points (e) and (f) of paragraph 1 of this Article to specific serious offences. A Member State intending to make use of such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with Article 117.

Para 3 allows Member States to impose further conditions or limitations on certain investigative measures, such as: access to telecommunications data and surveillance or **19**

other intrusive investigative tools. These measures may be subject to national rules that reflect Hungary's constitutional framework, traditions, and priorities regarding the protection of fundamental rights (e.g., privacy, proportionality, or necessity, see e.g. s. 271).

Chapter XLIII General provisions on applying coercive measures
Section 271
(1) When ordering or enforcing a coercive measure, efforts shall be made to ensure that the application of the coercive measure leads to restricting the fundamental rights of the person concerned only to the extent and for the time strictly necessary.
(2) A more restrictive coercive measure may be ordered, if the objective of the coercive measure may not be achieved by applying a less restrictive coercive measure or any other procedural act.
(3) A coercive measure shall be enforced with consideration for the person concerned and observing his fundamental rights that are not affected by the restriction. While enforced a coercive measure, it shall be ensured that the coercive measure does not affect any person other than the person concerned to any unnecessary extent.
(4) A coercive measure restricting the right to privacy, or of ownership, shall be enforced between the sixth and twenty-second hours of the day, if possible.
(5) It shall be ensured that the circumstances of the private life, and personal data, of the person concerned that are not related to the criminal proceeding are not revealed to the public in the course of enforcing a coercive measure.

f) Conditions and Limitations for investigation measures of Para 1(c), (e) and (f)

Section 234[163] **20**

(1) Covert means subject to permission of a judge may be used regarding intentional criminal offences punishable by imprisonment for five years or more.

(2) Covert means subject to permission of a judge may also be used regarding the following intentional criminal offences punishable by imprisonment for three years:

a) criminal offences committed on a commercial basis or in a criminal conspiracy,

b) abuse of drug precursors, counterfeiting of medicinal products, abuse of performance enhancing substance, counterfeiting of medical products,

c) sexual abuse, procuring, facilitating prostitution, living on the earnings of prostitution, exploitation of child prostitution, child pornography,

d) damaging the environment, damaging natural values, game poaching, organising illegal animal fights, violation of waste management regulations, e) criminal offences against justice, except for breach of seal,

f) corruption criminal offences, except for failure to report a corruption criminal offence,

g) criminal offence against the order of election, referendum and European citizens' initiative, illegal employment of a third-country national, organising illegal gambling, Act XC of 2017 on the Code of Criminal Procedure (as in force on 1 March 2022) This document has been produced for informational purposes only.

h) insider trading and illegal market manipulation.

(3) Covert means subject to permission of a judge may also be used regarding any intentionally committed misuse of classified data, abuse of office, violence against a

[163] 234. § (1) A bírói engedélyhez kötött leplezett eszközök az öt évig terjedő vagy ennél súlyosabb szabadságvesztéssel büntetendő szándékos bűncselekmény esetén alkalmazhatók.
(2) A bírói engedélyhez kötött leplezett eszközök a három évig terjedő szabadságvesztéssel büntetendő, szándékosan elkövetett következő bűncselekmények esetén is alkalmazhatók:
a) az üzletszerűen vagy bűnszövetségben elkövetett bűncselekmény,
b) a kábítószer-prekurzorral visszaélés, a gyógyszerhamisítás, a teljesítményfokozó szerrel visszaélés, az egészségügyi termék hamisítása,
c) a szexuális visszaélés, a kerítés, a prostitúció elősegítése, a kitartottság, a gyermekprostitúció kihasználása, a gyermekpornográfia,
d) a környezetkárosítás, a természetkárosítás, az orvvadászat, a tiltott állatviadal szervezése, a hulladékgazdálkodás rendjének megsértése,
e) a zártörés kivételével az igazságszolgáltatás elleni bűncselekmények,
f) a korrupciós bűncselekmény feljelentésének elmulasztása kivételével a korrupciós bűncselekmények,
g) a választás, népszavazás és európai polgári kezdeményezés rendje elleni bűncselekmény, a harmadik országbeli állampolgár jogellenes foglalkoztatása, a tiltott szerencsejáték szervezése,
h) a bennfentes kereskedelem és a tiltott piacbefolyásolás.
(3) Bírói engedélyhez kötött leplezett eszközök a szándékosan elkövetett minősített adattal visszaélés, a hivatali visszaélés, a hivatalos személy elleni erőszak, a nemzetközileg védett személy elleni erőszak, a készpénzhelyettesítő fizetési eszköz hamisítása, a jogosulatlan pénzügyi tevékenység és a piramisjáték szervezése esetén is alkalmazhatók.
(4) Ha a Btk. a bűncselekmény előkészületét büntetni rendeli, a bírói engedélyhez kötött leplezett eszközök az (1)–(3) bekezdésben meghatározott bűncselekmények előkészülete miatt indult büntetőeljárásban is alkalmazhatók.

public officer, violence against an internationally protected person, counterfeiting non-cash payment instruments, unauthorised financial activity, or organising a pyramid scheme.
(4) If preparation for a criminal offence is punishable under the Criminal Code, covert means subject to permission of a judge may also be used in criminal proceedings instituted regarding any preparation for a criminal offence specified in paragraphs (1) to (3).

g) Para 4: Any other measure(s) in the Member State

21 *The European Delegated Prosecutors shall be entitled to request or to order any other measures in their Member State that are available to prosecutors under national law in similar national cases, inaddition to the measures referred to in paragraph 1.*

22 The *telos* of this provision is to **balance the autonomy** of Member States' legal systems with the need for the EPPO to operate effectively across borders. This is achieved by empowering EDPs to act with the **same tools as national prosecutors**, ensuring operational consistency, respect for national law, and effective enforcement of EU financial interests. Para 4 ensures that EPPO investigations align with the legal and practical realities of the Member State where the investigation is conducted and they hereby enable Hungary, if it would opt-in to tie its own EDP to typical national measures:

The on-site interrogation
Section 208[164] (1) The court, the prosecution or the investigating authority shall interrogate the accused and the witness on the spot, if it is necessary for them to give a statement at the scene of the crime or at another location related to the crime, show the place of the commission, the location related to the crime other place, material means of proof, and the course of the act.
(2) Before the on-site interrogation, the defendant or the witness must be questioned about the circumstances under which he observed the place, act or material evidence in question, and what he would recognize from it.

Section 189[165] (1) Unless otherwise provided by law, the expert is employed by secondment. There is no legal remedy against the decision on the assignment of the expert.

[164] A helyszíni kihallgatás
208. § (1) A bíróság, az ügyészség vagy a nyomozó hatóság a helyszínen hallgatja ki a terheltet és a tanút, ha szükséges, hogy a bűncselekmény helyszínén vagy a bűncselekménnyel összefüggő más helyszínen tegyen vallomást, mutassa meg az elkövetés helyét, a bűncselekménnyel összefüggő más helyet, tárgyi bizonyítási eszközt, illetve a cselekmény lefolyását.
(2) A helyszíni kihallgatás előtt a terheltet, illetve a tanút ki kell hallgatni arról, hogy a kérdéses helyet, cselekményt vagy tárgyi bizonyítási eszközt milyen körülmények között észlelte, és miről ismerné fel.
[165] A szakértő
189. § (1) A törvény eltérő rendelkezése hiányában a szakértő alkalmazása kirendeléssel történik. A szakértő kirendeléséről szóló határozat ellen nincs helye jogorvoslatnak.
(2) Ha a szakvélemény elkészítéséhez sürgős részvizsgálatra van szükség, e vizsgálat kirendelő határozat nélkül, az ügyészség vagy a nyomozó hatóság szóbeli rendelkezése alapján is elvégezhető. Az ügyészség, illetve a nyomozó hatóság e rendelkezését tizenöt napon belül, írásba foglalva megküldi a szakértőnek.

(2) If an urgent sub-investigation is necessary for the preparation of the expert opinion, this investigation can be carried out without an assigning decision, based on the oral order of the prosecutor's office or the investigative authority. The prosecutor's office or the investigative authority shall send this provision in writing to the expert within fifteen days.
(3) The head of an expert institution, expert institute or business company according to the Act on Forensic Experts, or the chairman of the expert board, shall inform the appointing authority of the identity of the acting expert and the members of the case committee within eight days from the delivery of the appointing decision.
(4) The appointing authority shall inform the defendant, the defense counsel, the injured party, the property interest and the other interested parties – and if the expert was appointed by the court – the prosecutor's office.
(5) The trial court, prosecutor's office, or investigative authority may release the expert from the assignment for an important reason by decision. There is no legal appeal against this decision.
(6) The deadline for submitting the expert opinion – not including the opinion of a private expert – may not exceed two months. This deadline can be extended once, by a maximum of one month, upon the expert's request submitted before the deadline.

Section 190 (1) The defendant and the defense may propose the assignment of an expert, and the identity of the expert may be indicated in the motion. The court, the prosecutor's office, and the investigative authority decide on the motion. There is no legal appeal against the decision.
(2) The defendant and the defense may instruct the expert to prepare a private expert opinion if
a) the court, the prosecutor's office or the investigative authority rejected their motion to appoint an expert, or
b) the prosecutor's office or the investigative authority has not decided on the assignment of the expert indicated in their motion.
(3) If the motion of the accused or the defense counsel is aimed at the establishment or assessment by an expert of a fact that has already been examined by the previous expert opinion prepared by the expert assigned by the prosecution or the investigative authority,

(3) Az igazságügyi szakértőkről szóló törvény szerinti szakértői intézmény, szakértői intézet vagy gazdasági társaság vezetője, illetve a szakértői testület elnöke a kirendelő határozat kézbesítésétől számított nyolc napon belül tájékoztatja a kirendelőt az eljáró szakértő személyéről, illetve az eseti bizottság tagjairól.
(4) A kirendelő az eljáró szakértő személyéről, illetve az eseti bizottság tagjairól a kirendelő határozat keltétől, illetve a (3) bekezdésben meghatározott esetben a tájékoztatás érkezésétől számított nyolc napon belül tájékoztatja a terheltet, a védőt, a sértettet, a vagyoni érdekeltet és az egyéb érdekeltet – és ha a szakértőt a bíróság rendelte ki – az ügyészséget.
(5) Az eljáró bíróság, ügyészség, illetve nyomozó hatóság a szakértőt a kirendelés alól fontos okból határozattal felmentheti. E határozat ellen nincs helye jogorvoslatnak.
(6) A szakvélemény – ide nem értve a magánszakértői véleményt – előterjesztésének határideje a két hónapot nem haladhatja meg. Ez a határidő a szakértőnek a határidő lejárta előtt előterjesztett kérelmére egy alkalommal, legfeljebb egy hónappal meghosszabbítható.

an order for the preparation of a private expert opinion may be given if the accused or the defense counsel his motion to provide information pursuant to Section 197 (1) or supplement an expert opinion, or to assign a new expert pursuant to Section 197 (2) was rejected. If the previous expert opinion was prepared by the accused or the expert named in the motion of the defense, an order to prepare a private expert opinion cannot be given.
(4) Regarding the same professional question, the accused and the defender may commission the preparation of a private expert opinion.
(5) Within eight days, the defendant or the defense attorney must inform the court, prosecutor's office, or investigative authority dealing with the case about the commission to prepare the private expert opinion, the termination of the commission, the person of the commissioned expert, and the deadline for the preparation of the expert opinion. The deadline for providing information shall be calculated from the date of the assignment or the termination of the assignment.

Section 214[166] (1) The use of concealed devices is a special activity in criminal proceedings involving the limitation of fundamental rights related to the inviolability of a private residence and the protection of privacy, correspondence and personal data, which is carried out by the authorized bodies without the knowledge of the person concerned.
(2) The bodies authorized to do so may use covert devices for the purpose of carrying out their law enforcement duties as defined in the legislation applicable to them, only on the basis of the rules defined in this Act.
(3) Subsection (2) does not affect the collection of secret information carried out by the national security services and the anti-terrorism body of the police for the purpose of carrying out their law enforcement duties based on the law on national security services.

[166] Leplezett Eszközök
XXXV. Fejezet A Leplezett Eszközök Alkalmazásának Általános Szabályai
214. § (1) A leplezett eszközök alkalmazása olyan, a magánlakás sérthetetlenségéhez, valamint a magántitok, a levéltitok és a személyes adatok védelméhez fűződő alapvető jogok korlátozásával járó, a büntetőeljárásban végzett különleges tevékenység, amelyet az erre feljogosított szervek az érintett tudta nélkül végeznek.
(2) Leplezett eszközöket az erre feljogosított szervek a rájuk vonatkozó jogszabályokban meghatározott bűnüldözési feladataik végrehajtása céljából kizárólag az e törvényben meghatározott szabályok alapján alkalmazhatnak.
(3) A (2) bekezdés nem érinti a nemzetbiztonsági szolgálatok és a rendőrség terrorizmust elhárító szerve által a nemzetbiztonsági szolgálatokról szóló törvény alapján bűnüldözési feladataik végrehajtása céljából folytatott titkos információgyűjtést.
(4) A büntetőeljárásban
a) bírói vagy ügyészi engedélyhez nem kötött,
b) ügyészi engedélyhez kötött, valamint
c) bírói engedélyhez kötött
leplezett eszközök alkalmazhatók.
(5) Leplezett eszköz akkor alkalmazható, ha
a) megalapozottan feltehető, hogy a megszerezni kívánt információ, illetve bizonyíték a büntetőeljárás céljának eléréséhez elengedhetetlenül szükséges és más módon nem szerezhető meg,
b) annak alkalmazása nem jár az azzal érintett vagy más személy alapvető jogának az elérendő bűnüldözési célhoz képest aránytalan korlátozásával, és
c) annak alkalmazásával bűncselekménnyel összefüggő információ, illetve bizonyíték megszerzése valószínűsíthető.

(4) In criminal proceedings
a) not subject to a judge's or prosecutor's license,
b) subject to a prosecutor's license, as well as
c) subject to judicial permission covert devices can be used.
(5) Concealed device can be used if
a) it can be reasonably assumed that the information or evidence to be obtained is absolutely necessary to achieve the goal of the criminal proceedings and cannot be obtained in any other way,
b) its application does not result in a disproportionate restriction of the fundamental right of the person affected by it or of another person in relation to the law enforcement goal to be achieved, and
c) it is likely to obtain information or evidence related to a crime by using it.

Simulated purchases
Section 221[167] Subject to the permission of the prosecution service, sham contracts
a) on acquiring things or samples, or using services that are presumably related to a criminal offence,
b) on acquiring a thing or using a service that would provide a means of physical evidence regarding a criminal offence, in order to reinforce trust in the seller,
c) on acquiring a thing or using a service, to apprehend the perpetrator of a criminal offence or secure a means of physical evidence,
may be concluded and performed.

[167] Fedett nyomozó alkalmazása
222. § (1) A leplezett eszközök alkalmazására feljogosított szerv a szervhez tartozását, illetve kilétét tartósan leplező, kifejezetten ilyen feladat ellátása érdekében foglalkoztatott tagját (a továbbiakban: fedett nyomozó) a büntetőeljárásban az ügyészség engedélyével alkalmazhatja.
(2) Fedett nyomozó
a) bűnszervezetbe történő beépülés,
b) terrorista csoportba vagy terrorcselekmény feltételeinek biztosításához anyagi eszközt szolgáltató vagy gyűjtő, továbbá terrorcselekmény elkövetését vagy terrorista csoport tevékenységét anyagi eszközök nyújtásával vagy egyéb módon támogató szervezetbe történő beépülés,
c) álvásárlás,
d) rejtett figyelés végrehajtása,
e) a 215. § (7) bekezdése alapján az információ továbbítása, vagy
f) a bűncselekménnyel összefüggő információk és bizonyítékok megszerzése
érdekében alkalmazható.
(3) A fedett nyomozó az igénybevétel céljának eléréséhez szükséges időtartamra, legfeljebb hat hónapra alkalmazható. Ha az elrendelés feltételei továbbra is fennállnak, a fedett nyomozó alkalmazása az ügyészség engedélyével, alkalmanként legfeljebb hat hónappal ismételten meghosszabbítható.
(4) A fedett nyomozó alkalmazásáról szóló döntésben meg kell jelölni
a) a fedett nyomozó alkalmazásának a (2) bekezdésben meghatározott célját,
b) az alkalmazás kezdő és befejező időpontját napban meghatározva,
c) az ügy tárgyát képező bűncselekmény Btk. szerinti minősítését, valamint tényállásának rövid leírását, és
d) a 224. § (2) bekezdése szerinti bűncselekmény pontos megjelölését, ha a fedett nyomozó alkalmazásának eredményességéhez előreláthatóan szükséges.

Employing an undercover detective
Section 222[168]
(1) A body authorized to use covert means may use its member (hereinafter: undercover investigator) in criminal proceedings, who permanently conceals his affiliation with the body or his identity, and is specifically employed to perform such a task, with the permission of the public prosecutor's office.
(2) Undercover detective
a) joining a criminal organization,
b) integration into a terrorist group or an organization that provides or collects material means to ensure the conditions of a terrorist act, and also supports the commission of a terrorist act or the activities of a terrorist group by providing material means or in other ways,
c) fraudulent purchase,
d) performing covert surveillance,
e) forwarding the information based on § 215, paragraph (7), or
f) obtaining information and evidence related to the crime
can be used for
(3) The undercover investigator may be employed for the period necessary to achieve the purpose of the use, a maximum of six months. If the conditions of the order still exist, the employment of the undercover investigator can be repeatedly extended for up to six months with the permission of the prosecutor's office.
(4) It must be indicated in the decision on the employment of the undercover investigator
a) the purpose of the employment of the undercover investigator specified in paragraph (2),
b) specifying the start and end time of the application in days,

[168] Fedett nyomozó alkalmazása
222. § (1) A leplezett eszközök alkalmazására feljogosított szerv a szervhez tartozását, illetve kilétét tartósan leplező, kifejezetten ilyen feladat ellátása érdekében foglalkoztatott tagját (a továbbiakban: fedett nyomozó) a büntetőeljárásban az ügyészség engedélyével alkalmazhatja.
(2) Fedett nyomozó
a) bűnszervezetbe történő beépülés,
b) terrorista csoportba vagy terrorcselekmény feltételeinek biztosításához anyagi eszközt szolgáltató vagy gyűjtő, továbbá terrorcselekmény elkövetését vagy terrorista csoport tevékenységét anyagi eszközök nyújtásával vagy egyéb módon támogató szervezetbe történő beépülés,
c) álvásárlás,
d) rejtett figyelés végrehajtása,
e) a 215. § (7) bekezdése alapján az információ továbbítása, vagy
f) a bűncselekménnyel összefüggő információk és bizonyítékok megszerzése
érdekében alkalmazható.
(3) A fedett nyomozó az igénybevétel céljának eléréséhez szükséges időtartamra, legfeljebb hat hónapra alkalmazható. Ha az elrendelés feltételei továbbra is fennállnak, a fedett nyomozó alkalmazása az ügyészség engedélyével, alkalmanként legfeljebb hat hónappal ismételten meghosszabbítható.
(4) A fedett nyomozó alkalmazásáról szóló döntésben meg kell jelölni
a) a fedett nyomozó alkalmazásának a (2) bekezdésben meghatározott célját,
b) az alkalmazás kezdő és befejező időpontját napban meghatározva,
c) az ügy tárgyát képező bűncselekmény Btk. szerinti minősítését, valamint tényállásának rövid leírását, és
d) a 224. § (2) bekezdése szerinti bűncselekmény pontos megjelölését, ha a fedett nyomozó alkalmazásának eredményességéhez előreláthatóan szükséges.

c) the crime that is the subject of the case, Criminal Code. classification according to, as well as a brief description of the facts, and
d) the exact description of the crime according to § 224, paragraph (2), if it is reasonably necessary for the effectiveness of the employment of the undercover investigator.
Employing a member of an organization authorized to use covert devices and a secretly cooperating person in order to make a fake purchase.

Section 226[169] (1) In order to make a fraudulent purchase
a) a member of the body authorized to use the covert device can also be used, or
b) the body authorized to use covert devices may use a secretly cooperating person.
(2) The body authorized to use covert means may employ a secretly cooperating person for the purpose of a fake purchase if the goal to be achieved with the fake purchase cannot be achieved with the cooperation of an undercover investigator or a member of the body authorized to use covert tools, or can only be achieved with significant delay.
(3) In the case of the use of a covert device by a member of an organization authorized to use it and a person cooperating secretly for the purpose of counterfeiting, the provisions relating to the undercover investigator shall be applied accordingly.

Use of cover document, cover institution and cover data
Section 227[170] (1) A body authorized to use covert devices with the permission of the public prosecutor's office when using other covert devices

[169] A leplezett eszközök alkalmazására feljogosított szerv tagja és titkosan együttműködő személy alkalmazása álvásárlás érdekében
226. § (1) Az álvásárlás érdekében
a) a leplezett eszköz alkalmazására feljogosított szerv tagja is alkalmazható, illetve
b) a leplezett eszközök alkalmazására feljogosított szerv titkosan együttműködő személyt is igénybe vehet.
(2) A leplezett eszközök alkalmazására feljogosított szerv titkosan együttműködő személyt akkor alkalmazhat álvásárlás érdekében, ha az álvásárlással elérni kívánt cél fedett nyomozó vagy a leplezett eszköz alkalmazására feljogosított szerv tagja közreműködésével nem, vagy csak jelentős késedelemmel érhető el.
(3) A leplezett eszköz alkalmazására feljogosított szerv tagja és a titkosan együttműködő személy álvásárlás érdekében történő alkalmazása esetén a fedett nyomozóra vonatkozó rendelkezéseket megfelelően alkalmazni kell.
[170] A szakértő
189. § (1) A törvény eltérő rendelkezése hiányában a szakértő alkalmazása kirendeléssel történik. A szakértő kirendeléséről szóló határozat ellen nincs helye jogorvoslatnak.
(2) Ha a szakvélemény elkészítéséhez sürgős részvizsgálatra van szükség, e vizsgálat kirendelő határozat nélkül, az ügyészség vagy a nyomozó hatóság szóbeli rendelkezése alapján is elvégezhető. Az ügyészség, illetve a nyomozó hatóság e rendelkezését tizenöt napon belül, írásba foglalva megküldi a szakértőnek.
(3) Az igazságügyi szakértőkről szóló törvény szerinti szakértői intézmény, szakértői intézet vagy gazdasági társaság vezetője, illetve a szakértői testület elnöke a kirendelő határozat kézbesítésétől számított nyolc napon belül tájékoztatja a kirendelőt az eljáró szakértő személyéről, illetve az eseti bizottság tagjairól.
(4) A kirendelő az eljáró szakértő személyéről, illetve az eseti bizottság tagjairól a kirendelő határozat keltétől, illetve a (3) bekezdésben meghatározott esetben a tájékoztatás érkezésétől számított nyolc napon belül tájékoztatja a terheltet, a védőt, a sértettet, a vagyoni érdekeltet és az egyéb érdekeltet – és ha a szakértőt a bíróság rendelte ki – az ügyészséget.
(5) Az eljáró bíróság, ügyészség, illetve nyomozó hatóság a szakértőt a kirendelés alól fontos okból határozattal felmentheti. E határozat ellen nincs helye jogorvoslatnak.
(6) A szakvélemény – ide nem értve a magánszakértői véleményt – előterjesztésének határideje a két hónapot nem haladhatja meg. Ez a határidő a szakértőnek a határidő lejárta előtt előterjesztett kérelmére egy alkalommal, legfeljebb egy hónappal meghosszabbítható.

a) in order to detect and prove the crime, you may prepare or use a document or public document (hereinafter: cover document) containing untrue data, facts or statements,
b) in order to detect and prove the crime, it may establish and maintain an organization by the appropriate application of the provisions relating to the cover institution according to the laws governing it, or
c) in order to detect and prove the crime, as well as to protect the cover document and the organization according to point *b)*, false data (hereinafter: cover data) may be registered in public records.
(2) The cover document must be destroyed, and the cover data must be deleted from the public records if it is no longer necessary for the sake of criminal proceedings.

h) Para 5: National Procedures and national modalities for taking investigative measures

The European Delegated Prosecutors may only order the measures referred to in paragraphs 1 and 4 where there are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation, and where there is no less intrusive measure available which could achieve the same objective. The procedures and the modalities for taking the measures shall be governed by the applicable national law.

23 The EPPO Regulation Article 30 para 5 thus emphasizes using the **least intrusive measures** necessary for obtaining evidence. Hungarian law similarly restricts the use of covert tools to serious offences and mandates removal of electronic data once surveillance ends.

24

Common procedural rules for the use of concealed devices subject to a prosecutor's license
Section 228[171]
(1) Based on the motion of the authorized head of the body authorized to use covert devices, the prosecutor's office shall decide on the authorization of the use of the covert device within seventy-two hours from the receipt of the motion at the prosecutor's office.
(2) It must be marked or sent during the motion

[171] Az ügyészi engedélyhez kötött leplezett eszközök alkalmazásának közös eljárási szabályai
228. § (1) Az ügyészség a leplezett eszközök alkalmazására feljogosított szerv erre felhatalmazott vezetőjének az indítványa alapján, az indítvány ügyészséghez érkezésétől számított hetvenkét órán belül dönt a leplezett eszköz alkalmazásának engedélyezéséről.
(2) Az indítványozás során meg kell jelölni, illetve meg kell küldeni
a) a leplezett eszközök alkalmazására feljogosított szerv megnevezését, az előkészítő eljárás, illetve a nyomozás elrendelésének időpontját, az ügy számát,
b) az eljárás alapjául szolgáló bűncselekmény Btk. szerinti minősítését, valamint tényállásának rövid leírását, és a bűncselekmény gyanúját megalapozó vagy az annak lehetőségére utaló adatokat,
c) az alkalmazás törvényi feltételeinek meglétére vonatkozó valamennyi adatot,
d) az alkalmazni kívánt leplezett eszköz megnevezését, illetve az alkalmazás engedélyezéséhez szükséges adatokat, és
e) az ügyészi engedély alapjául szolgáló döntést.

a) the name of the body authorized to use covert devices, the date of ordering the preparatory procedure and the investigation, the case number,
b) the crime on which the procedure is based, Criminal Code. classification according to, as well as a brief description of the facts, and the data establishing the suspicion of the crime or indicating its possibility,
c) all data regarding the existence of the legal conditions for the application,
d) the name of the hidden device to be used, as well as the data required to authorize the application, and
e) the decision on which the prosecutor's license is based.

Section 229[172]
(1) If the authorization of the use of a covert device subject to a prosecutor's license would result in a delay that would significantly jeopardize the goal to be achieved by the use of the covert device, the head of the body authorized to use covert devices may start using the covert device until the decision of the prosecutor's office.
(2) In the case of the use of a covert device based on paragraph (1), the authorized head of the body authorized to use covert devices shall submit a motion to the public prosecutor's office for subsequent authorization of the use within seventy-two hours of the decision to start the use. The prosecutor's office decides on the motion within one hundred and twenty hours from the decision to start the application.
(3) During the motion for subsequent authorization, the circumstances establishing the existence of the conditions specified in paragraph (1) must also be indicated, as well as the time of the decision to start the application, specifying in hours.
(4) The prosecutor's office rejects the motion even if
a) the motion is late, or
b) the license could have been obtained even before the start of the application of the covert device, which is subject to the prosecutor's license, in accordance with paragraph (1).

[172] 229. § (1) Ha az ügyészi engedélyhez kötött leplezett eszköz alkalmazásának engedélyezése olyan késedelemmel járna, amely a leplezett eszköz alkalmazásával elérendő célt jelentősen veszélyeztetné, a leplezett eszközök alkalmazására feljogosított szerv erre felhatalmazott vezetője az ügyészség döntéséig megkezdheti a leplezett eszköz alkalmazását.
(2) A leplezett eszköz (1) bekezdés alapján megkezdett alkalmazása esetén a leplezett eszközök alkalmazására feljogosított szerv erre felhatalmazott vezetője az alkalmazás megkezdéséről hozott döntést követő hetvenkét órán belül indítványt tesz az ügyészségnek az alkalmazás utólagos engedélyezése érdekében. Az ügyészség az indítványról az alkalmazás megkezdéséről hozott döntéstől számított százhúsz órán belül dönt.
(3) Az utólagos engedélyezés iránti indítványozás során meg kell jelölni az (1) bekezdésben meghatározott feltételek fennállását megalapozó körülményeket is, továbbá az alkalmazás megkezdéséről hozott döntés időpontját órában meghatározva.
(4) Az ügyészség az indítványt akkor is elutasítja, ha
a) az indítvány elkésett, vagy
b) az engedély az ügyészi engedélyhez kötött leplezett eszköz alkalmazásának (1) bekezdés szerinti megkezdése előtt is beszerezhető lett volna.
(5) Ha az ügyészség az utólagos engedélyezés iránti indítványt elutasítja, a leplezett eszköz alkalmazásának eredménye bizonyítékként nem használható fel, és az így beszerzett adatokat haladéktalanul törölni kell.

(5) If the prosecutor's office rejects the motion for subsequent authorization, the result of the application of the covert device cannot be used as evidence, and the data obtained in this way must be deleted immediately.

Section 230[173] During the preparatory procedure conducted by the prosecution and the prosecutor's investigation, the tasks related to the authorization of concealed devices subject to a prosecutor's license are performed by the superior prosecutor's office.

Chapter XXXIX Common Rules of Using Covert Means Implementing the use of covert means

Section 243[174] (1) The use of covert means shall be recorded in minutes or memo-randum.

(2) The minutes or memorandum of the proceeding of an undercover investigator shall be signed by an authorised senior official of the organ authorised to employ undercover investigators. The minutes or memorandum shall be drafted in a way that it does not allow for any conclusion regarding the identity of an undercover investigator.

Section 244[175] (1) The organ authorised to use covert means shall implement the use of a covert means itself, or with assistance from a police organ designated to assist in the

[173] 229. § (1) Ha az ügyészi engedélyhez kötött leplezett eszköz alkalmazásának engedélyezése olyan késedelemmel járna, amely a leplezett eszköz alkalmazásával elérendő célt jelentősen veszélyeztetné, a leplezett eszközök alkalmazására feljogosított szerv erre felhatalmazott vezetője az ügyészség döntéséig megkezdheti a leplezett eszköz alkalmazását.
(2) A leplezett eszköz (1) bekezdés alapján megkezdett alkalmazása esetén a leplezett eszközök alkalmazására feljogosított szerv erre felhatalmazott vezetője az alkalmazás megkezdéséről hozott döntést követő hetvenkét órán belül indítványt tesz az ügyészségnek az alkalmazás utólagos engedélyezése érdekében. Az ügyészség az indítványról az alkalmazás megkezdéséről hozott döntéstől számított százhúsz órán belül dönt.
(3) Az utólagos engedélyezés iránti indítványozás során meg kell jelölni az (1) bekezdésben meghatározott feltételek fennállását megalapozó körülményeket is, továbbá az alkalmazás megkezdéséről hozott döntés időpontját órában meghatározva.
(4) Az ügyészség az indítványt akkor is elutasítja, ha
a) az indítvány elkésett, vagy
b) az engedély az ügyészi engedélyhez kötött leplezett eszköz alkalmazásának (1) bekezdés szerinti megkezdése előtt is beszerezhető lett volna.
(5) Ha az ügyészség az utólagos engedélyezés iránti indítványt elutasítja, a leplezett eszköz alkalmazásának eredménye bizonyítékként nem használható fel, és az így beszerzett adatokat haladéktalanul törölni kell.

[174] A leplezett eszközök alkalmazásának végrehajtása
243. § (1) A leplezett eszköz alkalmazásáról jegyzőkönyvet vagy feljegyzést kell készíteni.
(2) A fedett nyomozó eljárásáról készített jegyzőkönyvet vagy feljegyzést a fedett nyomozó foglalkoztatására feljogosított szerv erre felhatalmazott vezetője írja alá. A jegyzőkönyvet vagy a feljegyzést oly módon kell elkészíteni, hogy abból a fedett nyomozó személyére ne lehessen következtetni.

[175] 244. § (1) A leplezett eszközök alkalmazására feljogosított szerv a leplezett eszköz alkalmazását maga hajtja végre, a leplezett eszközök végrehajtásában való közreműködésre kijelölt rendőri szerv közreműködésével hajtja végre, vagy a leplezett eszköz alkalmazásához a nemzetbiztonsági szolgálatokról szóló törvény által ilyen szolgáltatások végzésére kijelölt nemzetbiztonsági szolgálatot veszi igénybe.
(2) A nyomozó hatóság által alkalmazott leplezett eszköz alkalmazásának a végrehajtásában a rendőrség belső bűnmegelőzési és bűnfelderítési feladatokat ellátó szerve, illetve a rendőrség terrorizmust elhárító szerve felkérésre közreműködik a rendőrségről szóló törvény szerint hatáskörébe tartozó bűncselekmény miatt folytatott előkészítő eljárás és nyomozás során.
(3) Az ügyészség által alkalmazott leplezett eszköz alkalmazásának a végrehajtásában felkérésre közreműködik

implementation of the use of covert means, or by engaging a national security service designated to perform such services by the Act on national security services.
(2) In the course of a preparatory proceeding or investigation conducted regarding a criminal offence falling within its subject-matter competence under the Act on the police, the police organ performing internal crime prevention and crime detection tasks, or the counter-terrorism police organ, shall assist, upon request, in implementing the use of a covert means used by an investigating authority.
(3) Upon invitation, the following shall participate in implementing the use of a covert means used by the prosecution service: a) the investigating authority or the police organ performing internal crime prevention and crime detection activities, or b) the counter-terrorism police organ in a proceeding conducted for a criminal offence within its subject-matter competence under the Act on the police.
(4) If the preparatory proceeding is conducted by the police organ performing internal crime prevention and crime detection activities, or the counter-terrorism police organ, and the investigation is ordered while covert means are already in use, the organ conducting the preparatory proceeding shall assist in implementing the use of covert means until instructed otherwise by the investigating authority or the prosecution service.
(5) If a covert means subject to permission of a judge or a prosecutor is used in the course of a preparatory proceeding or investigation conducted against a member of the professional personnel of national security services, or the counter-terrorism police organ, for committing a criminal offence, the national security service, or the counter-terrorism police organ concerned shall assist, upon invitation, in implementing the use of the covert means.
(6) An organisation providing electronic communications services or engaged in the transfer, technical processing or processing of postal items, other sealed consignments, or data stored in information systems shall be obliged to enable the use of covert means and cooperate with organs authorised to use such means. Terminating the use of covert means

a) a nyomozó hatóság, valamint a rendőrség belső bűnmegelőzési és bűnfelderítési feladatokat ellátó szerve, illetve
b) a rendőrségről szóló törvény szerint hatáskörébe tartozó bűncselekmény miatt folytatott eljárásban a rendőrség terrorizmust elhárító szerve.
(4) Ha az előkészítő eljárást a rendőrség belső bűnmegelőzési és bűnfelderítési feladatokat ellátó szerve vagy a rendőrség terrorizmust elhárító szerve folytatja, és a nyomozás elrendelésére oly módon kerül sor, hogy a leplezett eszközök alkalmazása folyamatban van, az előkészítő eljárást folytató szerv a leplezett eszközök alkalmazásának végrehajtásában a nyomozó hatóság vagy az ügyészség eltérő rendelkezéséig közreműködik.
(5) Ha a nemzetbiztonsági szolgálatok vagy a rendőrség terrorizmust elhárító szervének hivatásos állományú tagja által elkövetett bűncselekmény miatt folytatott előkészítő eljárás vagy nyomozás során bírói vagy ügyészi engedélyhez kötött leplezett eszközt alkalmaznak, felkérésre az érintett nemzetbiztonsági szolgálat, illetve a rendőrség terrorizmust elhárító szerve közreműködik a leplezett eszköz alkalmazásának a végrehajtásában.
(6) Az elektronikus hírközlési szolgáltatást végző szervezetek, valamint a postai küldemények, vagy az egyéb zárt küldemények, továbbá az információs rendszerben tárolt adatok továbbítását, feldolgozását, kezelését végző szervezetek kötelesek a leplezett eszközök alkalmazását biztosítani és az alkalmazásra feljogosított szervekkel együttműködni.

Section 245[176] (1) The head of the organ authorised to use covert means, or the prosecution service, shall terminate the use of covert means, or certain covert means, if
a) it is clear that no result may be expected from any further use, including situations where extending the scope of use would be in order, but the data necessary to do so are not available,
b) it is clear that the use of a covert means may not be continued any longer within the limits specified in the corresponding permission,
c) the purpose specified in the permission is achieved,
d) the period set or extended in the permission expired,
e) the motion for ex-post permission is dismissed by the court or the prosecution service,
f) the court withdrew the permission or prohibited the use of certain covert means under section 242,
g) the time limit for a preparatory proceeding expired during a use ordered in a preparatory proceeding, without an investigation being ordered, or
h) the proceeding has been terminated or the time limit for an investigation expired.
(2) The decision terminating the use of a covert means subject to permission of a judge shall be sent to the court.

Chapter XL Common Rules Concerning Data Acquired During the Use of Covert Means

Erasing data acquired during the use of covert means

Section 246[177] (1) Within thirty days after the use of a covert means is terminated, the following data shall be erased from among data acquired during the use of the covert

[176] A leplezett eszközök alkalmazásának megszüntetése
245. § (1) A leplezett eszközök alkalmazására feljogosított szerv vezetője vagy az ügyészség a leplezett eszközök vagy egyes eszközök alkalmazását megszünteti, ha
a) nyilvánvaló, hogy további alkalmazásától nem várható eredmény, ideértve azt is, ha az alkalmazás kiterjesztésének lenne helye, azonban az ehhez szükséges adatok nem állnak rendelkezésre,
b) nyilvánvaló, hogy az engedélyben meghatározott keretek között a leplezett eszköz alkalmazása nem végezhető tovább,
c) az engedélyben meghatározott célját elérte,
d) az engedélyben megállapított vagy meghosszabbított tartam lejárt,
e) az utólagos engedélyezés iránti indítványt a bíróság vagy az ügyészség elutasította,
f) a bíróság a 242. § alapján az engedélyt visszavonta vagy egyes leplezett eszközök alkalmazását megtiltotta,
g) az előkészítő eljárásban elrendelt alkalmazás alatt az előkészítő eljárás határideje lejárt és a nyomozást nem rendelték el, vagy
h) az eljárást megszüntették, illetve a nyomozás határideje lejárt.
(2) A bírói engedélyhez kötött leplezett eszköz alkalmazásának megszüntetéséről rendelkező határozatot meg kell küldeni a bíróságnak.

[177] A leplezett eszközök alkalmazása során megszerzett adatok törlése
246. § (1) A leplezett eszközök alkalmazásának megszüntetését követő harminc napon belül az annak során megszerzett adatok közül törölni kell
a) a leplezett eszközök alkalmazásának céljával össze nem függő adatot,
b) mindazon személyes adatot, amelyre a büntetőeljárás céljából nincs szükség, és
c) a 346. § (2) bekezdésében meghatározott adat kivételével azon adatot, amelyet a büntetőeljárásban bizonyítékként nem lehet felhasználni.
(2) Ha a leplezett eszközök alkalmazását nem maga a leplezett eszközök alkalmazására feljogosított szerv hajtotta végre, az (1) bekezdésben meghatározott határidőt attól a naptól kell számítani, amelyen a leplezett eszközök

means: a) data that are not related to the purpose of using covert means, b) all personal data that are not necessary for the criminal proceeding, c) data that may not be used as evidence in the criminal proceeding, except for data specified in section 346 (2).
(2) If it was not the organ authorised to use covert means itself that used the covert means, the time limit specified in paragraph (1) shall be calculated from the day when the data-storage medium, the document containing the results of using the covert means, or an extract thereof, arrives at the organ authorised to use covert means. The confidentiality of data acquired during the use of covert means Section 247 (1) In the course of permitting and implementing the use of covert means, or using any data generated as a result of such use, it shall be ensured that no unauthorised person may access, or get informed of, any measure or data.
(2) The organ authorised to use covert means, prosecution office, and court proceeding in a given case shall be responsible for ensuring compliance with the requirement specified in paragraph (1).
(3) To ensure compliance with the requirement specified in paragraph (1), the organ authorised to use covert means, the prosecution service, and the court may protect any data related to the use of a covert means by classifying such data in accordance with the rules laid down in the Act on the protection of classified data, provided that the relevant conditions are met.

Section 248[178] (1) If the organ authorised to use covert means classified any data related to the use of a covert means in accordance with the rules laid down in the Act on the protection of classified data, the review provided for under the Act shall be carried out immediately after terminating the use of the covert means and every two years thereafter.
(2) If data related to the use of covert means are processed as classified data in the criminal proceeding, the court, the prosecution service, or the investigating authority may initiate the review or revision of classification.

More general rules, shall be mentioned as well as they may apply to most of the coercive measures, which were presented as fraud investigation measures above. Section 271 CPC calls on the authorities to respect the principle of proportionality, which is a common denominator in rule-of-law based states, which is the reasons why Hungarian authorities need to respect it: **25**

alkalmazásának eredményét tartalmazó adathordozó, irat vagy annak kivonata a leplezett eszközök alkalmazására feljogosított szervhez megérkezett.

[178] 248. § (1) Ha a leplezett eszköz alkalmazásával kapcsolatos adatokat a leplezett eszközök alkalmazására feljogosított szerv a minősített adat védelméről szóló törvényben meghatározott szabályok szerint minősítette, a törvény szerinti felülvizsgálatot a leplezett eszköz alkalmazásának megszüntetését követően haladéktalanul, azután kétévente el kell végezni.
(2) Ha a leplezett eszköz alkalmazásával kapcsolatos adatokat a büntetőeljárásban minősített adatként kezelik, a bíróság, az ügyészség, illetve a nyomozó hatóság kezdeményezheti a minősítés felülvizsgálatát vagy felülbírálatát.

Chapter XLIII General Provisions on applying coercive measures
Section 271[179] (1) When ordering or enforcing a coercive measure, efforts shall be made to ensure that the application of the coercive measure leads to restricting the fundamental rights of the person concerned only to the extent and for the time strictly necessary.
(2) A more restrictive coercive measure may be ordered, if the objective of the coercive measure may not be achieved by applying a less restrictive coercive measure or any other procedural act.
(3) A coercive measure shall be enforced with consideration for the person concerned and observing his fundamental rights that are not affected by the restriction. While enforced a coercive measure, it shall be ensured that the coercive measure does not affect any person other than the person concerned to any unnecessary extent.
(4) A coercive measure restricting the right to privacy, or of ownership, shall be enforced between the sixth and twenty-second hours of the day, if possible.
(5) It shall be ensured that the circumstances of the private life, and personal data, of the person concerned that are not related to the criminal proceeding are not revealed to the public in the course of enforcing a coercive measure.
(6) Any unnecessary damage shall be avoided in the course of enforcing a coercive measure.
(7) For enforcing a coercive measure, the ordering court or prosecution office may make use of an investigating authority. Section 272 (1) A coercive measure may affect a) personal freedom or b) assets. (2) Coercive measures affecting personal freedom shall be the following: a) custody, b) restraining order, c) criminal supervision, d) pre-trial detention, and e) preliminary compulsory psychiatric treatment (points b) to e) hereinafter jointly "coercive measures affecting personal freedom subject to judicial permission")

26 S. 271 para 1 and 2 align with the Regulation's requirement for measures to be justified by reasonable grounds and proportional. The Hungarian CPC emphasizes the **principle of proportionality**, ensuring that coercive measures limit fundamental rights only to the extent strictly necessary to achieve the objective. The proportionality principle ensures that coercive measures like **covert means or surveillance** are applied only when

[179] A KÉNYSZERINTÉZKEDÉSEK ALKALMAZÁSÁNAK ÁLTALÁNOS SZABÁLYAI
271. § (1) A kényszerintézkedés elrendelésekor, illetve végrehajtása során arra kell törekedni, hogy annak alkalmazása az érintett alapvető jogainak a korlátozását csak a legszükségesebb mértékben és ideig eredményezze.
(2) Súlyosabb korlátozással járó kényszerintézkedés akkor rendelhető el, ha a kényszerintézkedéssel elérni kívánt cél kisebb korlátozással járó kényszerintézkedéssel vagy egyéb eljárási cselekménnyel nem érhető el.
(3) A kényszerintézkedést az érintett kíméletével, a korlátozással nem érintett alapvető jogait tiszteletben tartva kell végrehajtani. A kényszerintézkedés végrehajtása során figyelemmel kell lenni arra, hogy az az érintetten kívüli személyt csak a legszükségesebb mértékben érintsen.
(4) A magánéletet, illetve a tulajdonjogot korlátozó kényszerintézkedéseket lehetőleg a napnak a hatodik és huszonkettedik órája között kell végrehajtani.
(5) Biztosítani kell, hogy a kényszerintézkedés végrehajtása során ne kerüljenek nyilvánosságra az érintett magánéletének a büntetőeljárással össze nem függő körülményei, illetve a személyes adatai.
(6) A kényszerintézkedés végrehajtása során kerülni kell a szükségtelen károkozást.
(7) A bíróság és az ügyészség az általa elrendelt kényszerintézkedés végrehajtásához igénybe veheti a nyomozó hatóságot.

necessary, with less intrusive measures being considered first. Ss. 228–230 describe the procedures for authorizing the use of covert devices, ensuring that the use is based on adequate grounds, such as suspicion of a crime and the need for covert action. The use of such devices must be **authorized by a prosecutor**, who can decide within 72 hours of the request, thus meeting the requirement for timely decisions. If urgent, authorities may use covert devices prior to authorization but must seek subsequent approval within 72 hours, ensuring that the use of such devices is **closely monitored and justifiable**. This reflects the reasonable grounds requirement and provides a safeguard against unnecessary or excessive use.

S. 271 para 3 and 5 explain that coercive measures, including those involving covert means, respect the fundamental rights of the person concerned. The protection of privacy and personal data, especially in covert operations, is highlighted in s. 247 and s. 246, which require ensuring no unauthorized access to information or data generated during such operations. These provisions align with the **requirement to minimize intrusion**. **27**

The **termination of covert measures** requires that measures be stopped once they have fulfilled their objective or when they no longer produce useful results. This safeguards against prolonged, unnecessary invasions of privacy and aligns with the EPPO Regulation's requirement for measures to be strictly necessary. **28**

2. Rules on Pre-Trial Arrest and Cross-Border Surrender

Art. 33 Pre-trial arrest and cross-border surrender
1. The handling European Delegated Prosecutor may order or request the arrest or pre-trial detention of the suspect or accused person in accordance with the national law applicable in similar domestic cases.
2. Where it is necessary to arrest and surrender a person who is not present in the Member State in which the handling European Delegated Prosecutor is located, the latter shall issue or request the competent authority of that Member State to issue a European Arrest Warrant in accordance with Council Framework Decision 2002/584/JHA.

a) General relation to national law: applicable Codes

1 The Hungarian CPC applies in PIF cases and if a suspect shall be arrested or detained pre-trial in a corruption, budgetary fraud case or other PIF offence case shall apply. Statistics focusing only on the fraud offences detrimental to the EU with regard to arrest and pre-trial detention seem to be missing in which case the general provisions apply.

b) Para 1: Provisions for arrest and pre-trial detention

2 PIF and EU financial crimes, particularly those involving fraud against EU funds, are often complex, transnational, and involve substantial sums of money as recent EPPO cases from other countries show (see → Bulgarian volume, Croatian volume). Arrest and pre-trial detention may therefore be as well necessary to prevent suspects from fleeing, obstructing justice, or tampering with evidence during the investigation process under Hungarian law (especially if Hungary would opt-into the EPPO zone).

aa. Arrest

3

Catching the perpetrator in the act
Section 273[180] Anyone may arrest a person caught in the act of committing a crime, but he is obliged to hand him over to the investigative authority immediately, or, if there is no way to do so, to inform the police.

[180] A tetten ért elkövető elfogása
273. § A bűncselekmény elkövetésén tetten ért személyt bárki elfoghatja, köteles azonban őt a nyomozó hatóságnak haladéktalanul átadni, vagy ha erre nincs módja, a rendőrséget tájékoztatni.

Conditions and duration of detention

Section 274[181] (1) Detention is the temporary deprivation of the personal freedom of the accused or the person reasonably suspected of having committed the crime.

(2) In case of well-founded suspicion of a crime punishable by imprisonment, the court, the prosecution and the investigative authority may order the detention of the accused or the person who can be reasonably suspected of having committed the crime

a) in case of acquittal, if his identity cannot be established,

b) if it is probable that coercive measures affecting personal freedom may be ordered against him with the permission of a judge, or

c) if he causes disorder during the trial.

(3) Detention may last up to a maximum of seventy-two hours until a decision is made on the subject of coercive measures with judicial authorization affecting personal freedom.

(4) If the circumstances have not changed, the detention of the accused or the person reasonably suspected of having committed the crime cannot be ordered again.

(5) Official detention prior to the order of detention shall be included in the duration of detention.

(6) If the detention was ordered by the investigative authority, the prosecutor's office shall be informed of this within twenty-four hours. *In the case of point c)* of subsection (2), the court immediately informs the prosecutor's office with authority and competence regarding the crime that is the basis of the disorder.

[181] AZ ŐRIZET

Az őrizet feltétele és tartama

274. § (1) Az őrizet a terhelt, illetve a bűncselekmény elkövetésével megalapozottan gyanúsítható személy személyi szabadságának átmeneti elvonása.

(2) A bíróság, az ügyészség és a nyomozó hatóság szabadságvesztéssel büntetendő bűncselekmény megalapozott gyanúja esetén a terhelt, vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy őrizetét rendelheti el

a) tettenérés esetén, ha a személyazonossága nem állapítható meg,

b) ha vele szemben személyi szabadságot érintő bírói engedélyes kényszerintézkedés elrendelése valószínűsíthető, vagy

c) ha a tárgyaláson rendzavarást követ el.

(3) Az őrizet a személyi szabadságot érintő bírói engedélyes kényszerintézkedés tárgyában hozott döntésig, de legfeljebb hetvenkét óráig tarthat.

(4) Ha a körülmények nem változtak, a terhelt vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy őrizete ismételten nem rendelhető el.

(5) Az őrizet elrendelését megelőző hatósági fogva tartást az őrizet tartamába be kell számítani.

(6) Ha az őrizetet a nyomozó hatóság rendelte el, erről az ügyészséget huszonnégy órán belül tájékoztatja. A (2) bekezdés c) pontja esetén a bíróság haladéktalanul tájékoztatja a rendzavarás alapjául szolgáló bűncselekmény tekintetében hatáskörrel és illetékességgel rendelkező ügyészséget.

Action after ordering custody

Section 275[182] (1) The person of legal age designated by the accused or the person reasonably suspected of having committed the crime must be informed of the detention order and the place of detention within eight hours at the latest.

(2) The court, prosecutor's office or investigative authority ordering detention may refuse to inform the person referred to in paragraph (1) in order to ensure the success of the criminal proceedings or the life and physical integrity of another person.

(3) In case of refusal to provide information, it must be ensured that the accused or the person who can be reasonably suspected of having committed the crime can nominate another adult, who must be informed by the appropriate application of paragraphs (1) and (2).

(4) If the information cannot be provided within eight hours even with the application of paragraph (3), the accused, the person reasonably suspected of having committed the crime, and the defence attorney may take legal action against the refusal to provide information.

(5) Regarding the placement of the unsupervised minor child of the person charged or the person reasonably suspected of having committed the crime, or any other person cared for by him or her, as well as the safekeeping of the property and home of the person charged or the person reasonably suspected of having committed the crime left unattended, the court ordering custody, taken care of by the prosecution or investigative authority.

(6) The soldier's superior must also be informed of the order to detain him.

[182] AZ ŐRIZET

Az őrizet feltétele és tartama

274. § (1) Az őrizet a terhelt, illetve a bűncselekmény elkövetésével megalapozottan gyanúsítható személy személyi szabadságának átmeneti elvonása.

(2) A bíróság, az ügyészség és a nyomozó hatóság szabadságvesztéssel büntetendő bűncselekmény megalapozott gyanúja esetén a terhelt, vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy őrizetét rendelheti el

a) tettenérés esetén, ha a személyazonossága nem állapítható meg,

b) ha vele szemben személyi szabadságot érintő bírói engedélyes kényszerintézkedés elrendelése valószínűsíthető, vagy

c) ha a tárgyaláson rendzavarást követ el.

(3) Az őrizet a személyi szabadságot érintő bírói engedélyes kényszerintézkedés tárgyában hozott döntésig, de legfeljebb hetvenkét óráig tarthat.

(4) Ha a körülmények nem változtak, a terhelt vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy őrizete ismételten nem rendelhető el.

(5) Az őrizet elrendelését megelőző hatósági fogva tartást az őrizet tartamába be kell számítani.

(6) Ha az őrizetet a nyomozó hatóság rendelte el, erről az ügyészséget huszonnégy órán belül tájékoztatja. A (2) bekezdés c) pontja esetén a bíróság haladéktalanul tájékoztatja a rendzavarás alapjául szolgáló bűncselekmény tekintetében hatáskörrel és illetékességgel rendelkező ügyészséget.

bb. Pre-trial detention

The rules on pre-trial detention may apply in the following circumstances: **4**

Section 277[183] (1) A restraining order may be issued to avoid the complication or frustration of the taking of evidence, or to eliminate the possibility of reoffending with regard to the aggrieved party.
(2) Criminal supervision may be ordered to ensure the attendance of a defendant, avoid the complication or frustration of the taking of evidence, or eliminate the possibility of reoffending.
(3) Criminal supervision may be ordered in combination with issuing a restraining order.
(4) Pre-trial detention may be ordered to ensure the attendance of a defendant, avoid the complication or frustration of the taking of evidence, or eliminate the possibility of reoffending if, considering
a) the nature of the criminal offence,
b) the state and interests of the investigation,
c) the personal and family situation of the defendant,
d) the relationship between the defendant and another person involved in the criminal proceeding or any other person,
e) the behaviour of the defendant before and during the criminal proceeding, in particular, the objective of the coercive measure affecting personal freedom subject to judicial permission may not be achieved by way of a restraining order or criminal supervision.
(5) Preliminary compulsory psychiatric treatment may be ordered to eliminate the possibility of reoffending if it is reasonable to assume that the defendant is to be subjected to compulsory psychiatric treatment.

[183] 277. § (1) Távoltartás a bizonyítás megnehezítésének vagy meghiúsításának, illetve – ha ez a sértett vonatkozásában állapítható meg – a bűnismétlés megakadályozása érdekében rendelhető el.
(2) Bűnügyi felügyelet a terhelt jelenlétének biztosítása, a bizonyítás megnehezítésének vagy meghiúsításának megakadályozása, illetve a bűnismétlés megakadályozása érdekében rendelhető el.
(3) Bűnügyi felügyelet mellett távoltartás is elrendelhető.
(4) Letartóztatás a terhelt jelenlétének biztosítása, a bizonyítás megnehezítésének vagy meghiúsításának megakadályozása, illetve a bűnismétlés megakadályozása érdekében rendelhető el, ha különösen
a) a bűncselekmény jellegére,
b) a nyomozás állására és érdekeire,
c) a terhelt személyi és családi körülményeire,
d) a terhelt és a büntetőeljárásban részt vevő vagy más személy viszonyára,
e) a terhelt büntetőeljárás előtt és az eljárás során tanúsított magatartására
tekintettel a személyi szabadságot érintő bírói engedélyes kényszerintézkedéssel elérni kívánt cél távoltartással, illetve bűnügyi felügyelettel nem biztosítható.
(5) Előzetes kényszergyógykezelés a bűnismétlés megakadályozása érdekében rendelhető el, ha megalapozottan feltehető, hogy a terhelt kényszergyógykezelésének van helye.

Ordering a coercive measure affecting personal freedom subject to judicial permission Section 278[184] (1) The court shall decide, before the indictment only upon a motion by the prosecution service, on ordering a coercive measure affecting personal freedom subject to judicial permission.
(2) A motion for restraining order may also be submitted by an aggrieved party. Before the indictment, the aggrieved party may submit a motion for a restraining order to the proceeding prosecution office. The prosecution office shall forward the motion by the aggrieved party, together with all case documents, to the court without delay.
(3) Before the indictment, the court may
a) issue a restraining order, order criminal supervision, or issue a restraining order and order criminal supervision in place of pre-trial detention,
b) order criminal supervision with more lenient rules of behaviour in place of a restraining order moved for by the prosecution service,
c) issue a restraining order in addition to ordering criminal supervision, or issue a restraining order in place of ordering criminal supervision,
d) issue a restraining order, order criminal supervision, order criminal supervision and issue a restraining order, or order pre-trial detention in place of preliminary compulsory psychiatric treatment,
e) impose rules of behaviour that are more lenient than, or differ from, the rules of behaviour moved for.

Chapter XLVII Pre-Trial Detention
Section 296[185]
Pre-trial detention means the act of depriving the defendant of his personal freedom by a judge before a final and binding conclusive decision is adopted. The duration of the pre-trial detention

[184] Személyi szabadságot érintő bírói engedélyes kényszerintézkedések elrendelése
278. § (1) A személyi szabadságot érintő bírói engedélyes kényszerintézkedés elrendeléséről – a vádemelés előtt az ügyészség indítványára – a bíróság határoz.
(2) Távoltartás elrendelését a sértett is indítványozhatja. A sértett a távoltartás elrendelésére irányuló indítványát a vádemelés előtt az ügyben eljáró ügyészségnél terjesztheti elő. Az ügyészség a sértett indítványát az ügyiratokkal együtt haladéktalanul továbbítja a bíróságnak.
(3) A bíróság a vádemelés előtt
a) letartóztatás helyett távoltartást, bűnügyi felügyeletet, vagy távoltartást és bűnügyi felügyeletet rendelhet el,
b) az ügyészség által indítványozott távoltartás helyett enyhébb magatartási szabályok előírásával bűnügyi felügyeletet rendelhet el,
c) bűnügyi felügyelet mellett távoltartást is, vagy bűnügyi felügyelet helyett távoltartást rendelhet el,
d) előzetes kényszergyógykezelés helyett távoltartást, bűnügyi felügyeletet, bűnügyi felügyeletet és távoltartást vagy letartóztatást rendelhet el,
e) az indítványozott magatartási szabálynál enyhébb vagy attól eltérő magatartási szabályt is előírhat.
[185] A LETARTÓZTATÁS
296. § A letartóztatás a terhelt személyi szabadságának bírói elvonása a jogerős ügydöntő határozat meghozatala előtt.

Section 297[186] (1) The period of a pre-trial detention that is ordered before the indictment shall last until a decision adopted by the court of first instance during the preparation of the trial, but for not longer than one month.
(2) The period of pre-trial detention may be extended repeatedly by the court by up to three months each time for one year after ordering the pre-trial detention, and up to two months each time afterwards.
(3) Before the indictment, the prosecution service may submit a motion to the court to extend the period of pre-trial detention at least five days before the period of pre-trial detention expires.
(4) After the indictment, the provisions on the duration of the criminal supervision shall apply, as appropriate, to the duration of the pre-trial detention subject to the derogations laid down in section 298, and with the proviso that the duration of a pre-trial detention ordered or maintained after the conclusive decision of the court of first or second instance is announced may not exceed the period of imprisonment imposed in a judgment that is not final and binding. The maximum duration of pre-trial detention

Section 298[187] (1) The pre-trial detention may last up to a) one year if a criminal offence punishable by imprisonment for up to three years b) two years if a criminal offence punishable by imprisonment for up to five years c) three years if a criminal offence punishable by imprisonment for up to ten years d) four years if a criminal offence punishable by imprisonment for more than ten years, e) five years if a criminal offence punishable by life imprisonment serves as basis for the criminal proceeding conducted against the defendant.
(2) Paragraph (1) shall not apply if a) b) the pre-trial detention was ordered or maintained after the announcement of a conclusive decision, c) a proceeding to adjudicate an appeal

[186] A letartóztatás tartama
297. § (1) A vádemelés előtt elrendelt letartóztatás az elsőfokú bíróságnak a tárgyalás előkészítése során hozott határozatáig, de legfeljebb egy hónapig tart.
(2) A letartóztatást a bíróság a letartóztatás elrendelésétől számított egy év elteltéig alkalmanként legfeljebb három hónappal, ezt követően alkalmanként legfeljebb két hónappal meghosszabbíthatja.
(3) A vádemelés előtt a letartóztatás meghosszabbítása iránt az ügyészség a letartóztatás tartamának lejárta előtt legalább öt nappal tesz indítványt a bíróságnak.
(4) A vádemelést követően a letartóztatás tartamára a bűnügyi felügyelet tartamára vonatkozó rendelkezéseket a 298. §-ban meghatározott eltéréssel kell megfelelően alkalmazni azzal, hogy az elsőfokú vagy a másodfokú bíróság ügydöntő határozatának kihirdetése után elrendelt vagy fenntartott letartóztatás legfeljebb a nem jogerős ítélettel kiszabott szabadságvesztés tartamáig tart.
[187] A letartóztatás tartama
297. § (1) A vádemelés előtt elrendelt letartóztatás az elsőfokú bíróságnak a tárgyalás előkészítése során hozott határozatáig, de legfeljebb egy hónapig tart.
(2) A letartóztatást a bíróság a letartóztatás elrendelésétől számított egy év elteltéig alkalmanként legfeljebb három hónappal, ezt követően alkalmanként legfeljebb két hónappal meghosszabbíthatja.
(3) A vádemelés előtt a letartóztatás meghosszabbítása iránt az ügyészség a letartóztatás tartamának lejárta előtt legalább öt nappal tesz indítványt a bíróságnak.
(4) A vádemelést követően a letartóztatás tartamára a bűnügyi felügyelet tartamára vonatkozó rendelkezéseket a 298. §-ban meghatározott eltéréssel kell megfelelően alkalmazni azzal, hogy az elsőfokú vagy a másodfokú bíróság ügydöntő határozatának kihirdetése után elrendelt vagy fenntartott letartóztatás legfeljebb a nem jogerős ítélettel kiszabott szabadságvesztés tartamáig tart.

against a setting aside order of the court of second or third instance is pending, or d) a proceeding repeated due to setting aside is pending.
(3) The pre-trial detention of the defendant who violates the rules of behaviour relating to criminal supervision ordered after his pre-trial detention is terminated pursuant to paragraph (1) may be ordered anew. In such an event, the duration of pre-trial detention shall be calculated, for the purposes of paragraph (1), from the day of ordering his repeated pre-trial detention.
(4) The maximum length of the pre-trial detention under paragraph (1) e) shall be extended by another year if
a) indictment was brought because of a criminal offence committed in a criminal organisation,
b) issuing a request for legal assistance in a criminal matter as regards a country other than a Member State of the European Union was necessary after the indictment,
c) indictment was brought because of the felony of terrorist act,
d) indictment was brought because of the felony of homicide committed with premeditation, out of greed, against multiple persons or as set out in section 160 (2) l), having regard to paragraph (7) a), of the Criminal Code,
e) the court establishes that, after the indictment, the defendant, who is in pre-trial detention, escaped or attempted to escape or, with a view to frustrating the taking of evidence, intimidated or illegally influenced a person involved in the criminal proceeding or any other person, or destroyed, falsified, or hid any means of physical evidence, electronic data, or thing subject to forfeiture of assets.
(5) If the court orders criminal supervision solely because the maximum length of pre-trial detention under paragraph (1) e) was reached, then the court a) shall prescribe for the defendant that he is not to leave a specific home, other premises, or a fenced area of it without permission, b) shall prescribe for a defendant without a domicile suitable for the enforcement of criminal supervision to spend the period of criminal supervision at the accommodation provided by the State, c) shall be forbidden to permit for the defendant to leave for work the place designated for him.

The enforcement of the pre-trial detention
Section 299[188] (1) If the pre-trial detention of a defendant is ordered, the measures specified in section 275 shall be taken without delay by the investigating authority or the prosecution service before the indictment, or the court after the indictment.

[188] A letartóztatás végrehajtása
299. § (1) A vádemelés előtt a nyomozó hatóság vagy az ügyészség, a vádemelés után a bíróság a terhelt letartóztatásának elrendelése esetén haladéktalanul megteszi a 275. §-ban szabályozott intézkedéseket.
(2) Az ügyészség rendelkezése alapján a letartóztatást rendőrségi fogdában kell végrehajtani, ha az eljárási cselekmények elvégzése ezt indokolttá teszi, ennek tartama legfeljebb összesen hatvan nap lehet.
(3) A gyanúsított rendőrségi fogdában történő elhelyezése tárgyában hozott határozat ellen panasznak nincs helye.
(4) A bíróság a terhelt vagy a védő indítványára a terhelt és gyermeke együttes elhelyezést biztosító részlegen történő elhelyezéséről rendelkezik, ha a terhelt egyévesnél fiatalabb gyermekét gondozó nő és nem áll fenn törvényben meghatározott kizáró ok.

(2) If it is necessary for the performance of a procedural act, the pre-trial detention shall be enforced in a police detention facility as instructed by the prosecution service; the duration of such a pre-trial detention may not exceed sixty days in total. (3) No complaint shall lie against the decision to place a defendant into a police detention facility.
(4) In the absence of grounds for exclusion specified by law, if a defendant is a woman caring for her child below the age of one, the court, upon a motion from the defendant or the defence counsel, shall order the defendant and her child to be held in a unit allowing for their joint placement.

Adjudicating a motion to terminate the pre-trial detention
Section 300[189] (1) A motion to terminate the pre-trial detention or to order a more lenient coercive measure affecting personal freedom subject to judicial permission may be submitted by the prosecution service or the defendant or his defence counsel.
(2) The motion to terminate pre-trial detention or to order a more lenient coercive measure affecting personal freedom subject to judicial permission shall be examined on its merits, and a decision shall be adopted on it by the court. If the motion was not filed by the prosecution service, the court shall obtain the observations of, or a motion from, the prosecution service.
(3) If another motion to terminate the pre-trial detention is submitted with identical content, it may not be dismissed without stating any reason as to its merits, provided that three months have passed since the pre-trial detention was ordered, extended, or maintained.
(4) The court a) shall not adjudicate the motion if the defendant is not subject to a coercive measure affecting personal freedom subject to judicial permission any longer, or he is subject to another coercive measure affecting personal freedom subject to judicial permission, b) may decide not to adjudicate the motion and, at the same time, notify the defendant and the defence counsel accordingly if the pre-trial detention was extended or maintained at any time during the period between submitting and adjudicating the motion.

[189] A letartóztatás megszüntetése iránti indítvány elbírálása
300. § (1) A letartóztatás megszüntetése, illetve enyhébb, a személyi szabadságot érintő bírói engedélyes kényszerintézkedés elrendelése iránt az ügyészség, a terhelt, illetve a védője terjeszthet elő indítványt.
(2) A letartóztatás megszüntetése, illetve az enyhébb személyi szabadságot érintő bírói engedélyes kényszerintézkedés elrendelése iránti indítványt a bíróság érdemben megvizsgálja, és erről határozatot hoz. Ha az indítványt nem az ügyészség terjesztette elő, a bíróság beszerzi az ügyészség észrevételét vagy indítványát.
(3) A letartóztatás megszüntetése iránt, ismételten azonos tartalommal előterjesztett indítvány érdemi indokolás nélkül nem utasítható el, ha a letartóztatás elrendelése, meghosszabbítása vagy fenntartása óta három hónap eltelt.
(4) A bíróság az indítvány elbírálását
a) mellőzi, ha a terhelt már nem áll személyi szabadságot érintő bírói engedélyes kényszerintézkedés hatálya alatt, vagy más személyi szabadságot érintő bírói engedélyes kényszerintézkedés hatálya alatt áll,
b) a terhelt és a védő egyidejű értesítése mellett mellőzheti, ha az indítvány előterjesztése és az indítvány elbírálása között a letartóztatást meghosszabbította vagy fenntartotta.

5 Be aware that any extradition in EPPO or PIF crimes related matters, thus decision to extradite a person to Hungary is and should as well (be) assessed with regard to human rights profoundly as stated recently by the Federal German Constitutional Court.[190]

[190] BVerfG, Order of 24 January 2025 – 2 BvR 1103/24.

3. Some provisions on Defence laws relating to EPPO actions concerning PIF Crime offences

Effective legal defence and the protection of fundamental rights is essential in criminal proceedings related to fraud affecting the EU budget.[191] The Hungarian Procedural Criminal Law (CPC) establishes clear rights and protections for defendants to ensure fair preparatory proceedings in PIF acquis cases.[192] Another important issue is the admissibility of evidence obtained in Hungary.[193] 1

For the presence **during searches**, lawyers will be aware that a **property search** (vehicle, data recorder, etc.) must occur in the presence of the owner, user, or their defence counsel. If they are unavailable, a neutral adult must oversee the search and no exceptions apply. For the protection of confidential information it is important to reconsider theat **defence communication** is strictly protected (LLP situations are encompassed). Thus, certain materials (e.g., communication between a defendant and their defence counsel, defence counsel's notes, and privileged information) cannot be seized under s. 310 CPC.[194] 2

The **secrecy of defence counsel information** is a high good. Defence counsels cannot be compelled to testify on knowledge gained in their role (except a fey exceptions in very special situations in the AML area). However, **lawyer-client secrecy** applies only to information not obtained as defence counsel and disclosure is possible but not mandatory.[195] 3

For any defendant it is important to know that already in the early procedure, even before a trial, an **expert involvement** might be requested. The defendant and defence counsel can request an expert's appointment to support the defence.[196] 4

[191] See quite short, but precise Turksen, Vozza, Kreissl, Rasmouki 2023, pp. 254256 listing all applicable EU Driectives adopted from 2010–2016 with the intitial EU roadmap from 2009. See as well in the Croiatian volume for typical EPPO defence cases, that already resulted in court rulings from 2023–2024 and the different arguments of the EPPO and the defence. And see already Peters 2014, putting emphasis on the shortcomings.

[192] Fair Trials 2022, explain the main terms and summarizing the rights of any suspect and accused; Szomora 2018, 99 et seq. explaining the appeal system.

[193] See Zajac 2025 (pre-published online 21 January 2025) saying that despite ECtHR portrays itself as a strong defender of the Rule of Law, it has systematically failed to establish a robust framework for excluding unlawfully obtained evidence in criminal proceedings Hungary has been criticized for judicial independence issues, and concerns about the rule of law have been central to disputes with the EU. If Hungarian courts admit unlawfully obtained evidence, defendants may struggle to challenge it under the ECtHR framework, as the Court does not strictly enforce evidence exclusion. This raises concerns according to her analysis about the fairness of trials and may weaken legal accountability in cases involving corruption or political interference; and see more generally Garamvölgyi et al. 2020, pp. 201 et seq., who propose together harmonizing evidence admissibility rules across EU Member States through legislation based on Article 82 para 2 TFEU. They argue that mutual recognition alone is insufficient due to divergent national rules. A legislative framework would enhance legal certainty, efficiency, and the protection of fundamental rights in cross-border cases.

[194] Csongor 2018, p. 33, 34, 49, Csongor 2020, p. 889 et seq. passim on changes of the new criminal procedure.

[195] Ibid, p. 44 ff.

[196] Ibid, p. 45.

5 Next, according to Hungarian academic criminal literature the procedural rights situation during questioning in the so-called preparatory proceure can be summarized as follows; During the preparatory phase, suspects must undergo:

"[a)] Identity verification

[b)] Miranda warning (suspect rights)

[c)] Formal pronouncement of suspicion

[d)] Presentation of factual testimony"[197]

6 These aforementioned safeguards ensure a **CFR-conform fairness** and procedural integrity, reinforcing the rule of law in fraud investigations impacting the EU budget.[198]

S. 3 CPC outlines the right of the accused to effective protection in criminal proceedings:

Section 3[199] **The right of protection**
(1) The accused has the right to effective defense at all stages of the criminal proceedings.
(2) The accused has the right to defend himself personally and also to use the assistance of a defense attorney to provide the defense.
(3) The court, the prosecutor's office and the investigative authority shall provide a defense attorney for the accused in accordance with the provisions of this law.
(4) The court, the prosecutor's office and the investigative authority are obliged to provide adequate time and conditions for preparing for the defense.
(5) The accused has the right to defend himself at liberty.
(6) The court, the prosecutor's office and the investigative authority are obliged ex officio to take into account the circumstances that save the defendant and mitigate his criminal liability.

a) Specialised law firms?

7 At the moment there are no special law firms that concentrate only on OLAF cases or budgetary fraud cases. All criminal lawyers might therefore be relevant partners and contact persons for potential victims as well as perpetrators. It is worth consulting the Hungarian Bar to ask for specialised defenders.

[197] Csongor 2018, p. 49; See on Hungarian economical criminal law in German recently Csongor and Imre 2024.
[198] See Csongor 2018, p. 4, 7–10, 14–18, 33.
[199] A védelem joga
3. § (1) A terheltnek a büntetőeljárás minden szakaszában joga van a hatékony védelemhez.
(2) A terheltnek joga van ahhoz, hogy személyesen védekezzen, és ahhoz is, hogy a védelem ellátására védő közreműködését vegye igénybe.
(3) A bíróság, az ügyészség és a nyomozó hatóság az e törvényben meghatározottak szerint védőt biztosít a terhelt számára.
(4) A bíróság, az ügyészség és a nyomozó hatóság köteles megfelelő időt és körülményeket biztosítani a védelemre való felkészüléshez.
(5) A terheltnek joga van ahhoz, hogy szabadlábon védekezzen.
(6) A bíróság, az ügyészség és a nyomozó hatóság köteles a terheltet mentő és a büntetőjogi felelősségét enyhítő körülményeket hivatalból figyelembe venni.

b) Defence in the investigation phase

The defence in the investigation phase is particularly important. **8**

VII. Chapter The accused and the person who can be reasonably suspected of committing the crime

The concept of the accused and the person who can be reasonably suspected of having committed the crime

Section 38[200]

(1) The defendant is the person against whom criminal proceedings are being conducted.

(2) The defendant is a suspect during the investigation, an accused after the indictment, a conviction after the imposition of punishment, reprimand, probation, reparation work or correctional education by a final decision.

(3) A person who can be reasonably suspected of having committed a crime during the investigation – until the suspicion is disclosed – is the one who was arrested for committing a crime, summoned for questioning as a suspect, whose production or arrest was ordered for committing a crime, or against whom an arrest warrant was issued.

Rights and obligations of the accused and the person reasonably suspected of having committed the crime.

[200] 38. § (1) A terhelt az, akivel szemben büntetőeljárást folytatnak.
(2) A terhelt a nyomozás során gyanúsított, a vádemelés után vádlott, a büntetés, a megrovás, a próbára bocsátás, a jóvátételi munka vagy a javítóintézeti nevelés jogerős ügydöntő határozattal történő kiszabása, illetve alkalmazása után elítélt.
(3) A bűncselekmény elkövetésével megalapozottan gyanúsítható személy a nyomozás során – a gyanúsítás közléséig – az, akit bűncselekmény elkövetése miatt elfogtak, gyanúsítotti kihallgatása érdekében idéztek, akinek előállítását vagy bűncselekmény elkövetése miatt körözését rendelték el, vagy akivel szemben elfogatóparancsot bocsátottak ki.

Section 39[201]

(1) The defendant is entitled to

a) get to know the subject of the suspicion and accusation, as well as their changes,

b) the court, the prosecutor's office and the investigative authority provide him with adequate time and conditions to prepare for his defence,

c) receive information about his rights and obligations in criminal proceedings from the court, the prosecutor's office and the investigative authority,

[201] A terhelt és a bűncselekmény elkövetésével megalapozottan gyanúsítható személy jogai és kötelezettségei
39. § (1) A terhelt jogosult arra, hogy
a) megismerje a gyanúsítás és a vád tárgyát, továbbá ezek változását,
b) a bíróság, az ügyészség és a nyomozó hatóság megfelelő időt és körülményeket biztosítson számára a védekezésre való felkészüléshez,
c) a büntetőeljárási jogairól és kötelességeiről a bíróságtól, az ügyészségtől és a nyomozó hatóságtól felvilágosítást kapjon,
d) védelmének ellátására védőt hatalmazzon meg vagy védő kirendelését indítványozza,
e) a védőjével ellenőrzés nélkül tanácskozzon,
f) vallomást tegyen vagy a vallomástételt megtagadja,
g) bizonyítékot terjesszen elő, indítványt és észrevételt tegyen, az utolsó szó jogán felszólaljon,
h) a tárgyaláson és a személyi szabadságot érintő bírói engedélyes kényszerintézkedés tárgyában tartandó ülésen jelen legyen és az e törvényben meghatározottak szerint kérdéseket tegyen fel,
i) jogorvoslattal éljen,
j) az eljárás ügyiratait – az e törvényben meghatározott kivételekkel – teljes terjedelmében megismerje,
k) egyezség megkötését, illetve ügyészi intézkedés vagy határozat kilátásba helyezését kezdeményezze.
(2) A fogva lévő terhelt jogosult arra, hogy
a) megismerje a fogva tartásának okát és ennek változását,
b) a fogva tartásáról egy általa választott személyt a bíróság, az ügyészség és a nyomozó hatóság tájékoztasson,
c) a védőjével, és ha külföldi állampolgár, az államának konzuli képviselőjével a kapcsolatot felvegye, vele személyesen, postai vagy elektronikus úton ellenőrzés nélkül érintkezzen,
d) az általa választott személlyel a vádemelés előtt az ügyészség, azután a bíróság rendelkezése szerint személyesen felügyelet mellett, továbbá postai vagy elektronikus úton ellenőrzés mellett érintkezzen,
e) törvénnyel kihirdetett nemzetközi szerződésben meghatározott személlyel, hatósággal a nemzetközi szerződésben meghatározottak szerint érintkezzen.
(3) A terhelt köteles
a) az eljárási cselekményeken a bíróság, az ügyészség és a nyomozó hatóság rendelkezéseinek megfelelően az e törvényben meghatározottak szerint jelen lenni,
b) a lakcímét, értesítési címét, tényleges tartózkodási helyét, kézbesítési címét, telefonos elérhetőségét, elektronikus levelezési címét vagy más elektronikus elérhetőségét, valamint ezek megváltozását – a változást követő három munkanapon belül – az eljáró bírósággal, ügyészséggel vagy nyomozó hatósággal közölni.
(4) A bíróság, az ügyészség vagy a nyomozó hatóság a terheltet a büntetőeljárásban történő részvételének kezdetekor a jogairól tájékoztatja és a kötelezettségeire figyelmezteti. A tájékoztatás kiterjed arra, hogy költségkedvezmény iránti kérelmet nyújthat be, annak feltételeire, valamint az anyanyelv használatához való jogra is.
(5) Ha a terhelt fogva van, az eljáró bíróság, ügyészség vagy nyomozó hatóság a terheltet a jogairól írásban is tájékoztatja. A tájékoztatás kiterjed a fogva tartásnak az elrendeléséről szóló határozat szerinti, illetve a törvényben meghatározott lehetséges végső tartamára, a fogva tartás meghosszabbításának, fenntartásának és felülvizsgálatának szabályaira, valamint az e határozatokkal szembeni jogorvoslathoz, illetve a fogva tartás megszüntetése iránti indítvány benyújtásához való jogra is.
(6) Az (1) bekezdés b) és e) pontja szerinti jog gyakorlása érdekében a bíróság, az ügyészség vagy a nyomozó hatóság az eljárási cselekmény megkezdését vagy elvégzését legalább egy órára elhalasztja, ha a terheltnek a védekezésre való felkészülésre, vagy a védővel való tanácskozásra az eljárási cselekmény megkezdése előtt – a terhelt és a védő önhibáján kívüli okból – nem volt lehetősége.
(7) A (2) bekezdés d) pontja szerinti jog biztosítása során a bíróság vagy az ügyészség a hozzátartozóval való érintkezést kizárólag a büntetőeljárás eredményessége, vagy más személy életének, testi épségének védelme érdekében korlátozhatja vagy tilthatja meg. Az erről szóló határozat ellen a terhelt és a védő élhet jogorvoslattal.
(8) A bűncselekmény elkövetésével megalapozottan gyanúsítható személy jogaira és kötelezettségeire – az (1) bekezdés a), f)–h), j) és k) pontja, valamint a (3) bekezdés b) pontja kivételével – a terhelt jogaira és kötelezettségeire vonatkozó szabályokat kell megfelelően alkalmazni.

d) authorize a defence attorney or propose the assignment of a defence attorney,
e) consult with his defence counsel without supervision,
f) testify or refuse to testify,
g) present evidence, make motions and comments, have the right to have the last word,
h) to be present at the trial and at the meeting to be held in the subject of judicially authorized coercive measures affecting personal freedom and to ask questions as defined in this law,
i) use legal remedies,
j) get to know the case files of the procedure in their entirety – with the exceptions specified in this law,
k) initiate the conclusion of a settlement or the prospect of prosecutorial action or decision.
(2) The defendant in custody is entitled to
a) find out the reason for his detention and its change,
b) the court, the prosecutor's office and the investigative authority inform a person of their choice about the detention,
c) contact his defence counsel and, if he is a foreign citizen, the consular representative of his state, communicate with him personally, by post or electronically without verification,
d) communicate with the person of his choice before indictment by the public prosecutor's office, then in accordance with the order of the court, under personal supervision, and under control by mail or electronically,
e) Communicate with persons and authorities specified in the international treaty promulgated by
(3) The debtor is obliged
a) to be present at the procedural acts in accordance with the provisions of the court, the prosecutor's office and the investigative authority as defined in this law,
b) to communicate your residential address, notification address, actual place of residence, delivery address, telephone contact information, electronic mail address or other electronic contact information, as well as any changes to them – within three working days after the change – to the court, prosecutor's office or investigative authority.
(4) The court, the prosecutor's office or the investigating authority shall inform the defendant of his rights and warn him of his obligations at the beginning of his participation in the criminal proceedings. The information covers the fact that you can submit an application for a cost reduction, its conditions, and the right to use your native language.
(5) If the defendant is in custody, the trial court, prosecutor's office or investigative authority shall also inform the defendant of his rights in writing. The information covers the possible final duration of the detention according to the decision on its ordering, as well as the possible final duration defined by law, the rules for the extension, maintenance and review of the detention, as well as the right to appeal against these decisions and to submit a motion to terminate the detention.

(6) In order to exercise the right according to points b) and e) of paragraph (1), the court, the prosecutor's office or the investigating authority shall postpone the start or completion of the procedural act for at least one hour if the accused has time to prepare for the defence or to meet with the defence counsel. he did not have the opportunity to consult before the start of the procedural act – for reasons other than the defendant's and the defence's fault.
(7) When ensuring the right under Section 7 (2) (d), the court or the prosecutor may restrict or prohibit contact with relatives solely for the purpose of the effectiveness of the criminal proceedings or the protection of another person's life or physical integrity. The accused and their defence counsel may seek legal remedy against such a decision.
(8) The rights and obligations of a person reasonably suspected of having committed a crime – with the exception of points a), f)–h), j) and k) of paragraph (1) and point b) of paragraph (3) – the rights of the accused and the rules relating to its obligations must be properly applied.

Mandatory defence counsel participation in the procedure
Section 44[202]
The participation of a defence attorney in criminal proceedings is mandatory if
a) the law prescribes the imposition of a prison sentence of up to five years or more for the crime,
b) the accused or the person who can be reasonably suspected of having committed the crime is subject to coercive measures affecting personal freedom, in other cases is subject to arrest, pre-trial compulsory medical treatment, and if he is serving a prison term, detention or education in a correctional institution,
c) the person accused or reasonably suspected of having committed the crime is hearing impaired, deaf blind, blind, speech impaired, unable to communicate for other reasons, or is severely limited in communication, and – regardless of his or her mental capacity – has a pathological mental state,

[202] Kötelező védői részvétel az eljárásban
44. § A büntetőeljárásban védő részvétele kötelező, ha
a) a bűncselekményre a törvény öt évig terjedő vagy ennél súlyosabb szabadságvesztés büntetés kiszabását rendeli,
b) a terhelt vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy személyi szabadságot érintő kényszerintézkedés hatálya alatt áll, más ügyben letartóztatás, előzetes kényszergyógykezelés hatálya alatt áll, valamint ha szabadságvesztést, elzárást vagy javítóintézeti nevelést tölt,
c) a terhelt vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy hallássérült, siketvak, vak, beszédfogyatékos, más okból kommunikációképtelen, vagy abban súlyos fokban korlátozott, továbbá – a beszámítási képességére tekintet nélkül – kóros elmeállapotú,
d) a terhelt vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy a magyar nyelvet nem ismeri,
e) a terhelt vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy egyéb okból nem képes személyesen védekezni,
f) a bíróság, az ügyészség, illetve a nyomozó hatóság a terhelt vagy a bűncselekmény elkövetésével megalapozottan gyanúsítható személy indítványára, vagy azért, mert azt egyéb okból szükségesnek tartotta, védőt rendelt ki,
g) e törvény erről külön rendelkezik.

d) the person accused or reasonably suspected of having committed the crime does not know the Hungarian language,
e) the person charged or reasonably suspected of having committed the crime is unable to defend himself personally for other reasons,
f) the court, the prosecutor's office, or the investigative authority appointed a defence attorney at the request of the accused or the person reasonably suspected of having committed the crime, or because it was deemed necessary for some other reason,
g) this law provides for this separately.

aa. Access to national case file

The Access to the national case file is granted on the basis of an application that is regulated by the Hungarian CPC. **9**

bb. Defence while investigation is under-way

The communication with the prosecutor or court may be based on electronic means see Art. 148 et seq. Hungarian CPC. The Fundamental Law grants fundamental rights, which depend on their protection: **10**

Article IV Fundamental Law [203]
(1) Everyone shall have the right to liberty and security of the person.
(2) No one shall be deprived of liberty except for reasons specified in an Act and in accordance with the procedure laid down in an Act. Life imprisonment without parole may only be imposed for the commission of intentional and violent criminal offences. The Fundamental Law of Hungary (as in force on 1 January 2019) This document has been produced for informational purposes only. 9
(3) Any person suspected of having committed a criminal offence and taken into detention must, as soon as possible, be released or brought before a court. The court shall be obliged to hear the person brought before it and shall without delay make a decision with a written statement of reasons to release or to arrest that person. (4) Everyone whose liberty has been restricted without a well-founded reason or unlawfully shall have the right to compensation.

[203] IV. cikk
(1) Mindenkinek joga van a szabadsághoz és a személyi biztonsághoz.
(2) Senkit nem lehet szabadságától másként, mint törvényben meghatározott okokból és törvényben meghatározott eljárás alapján megfosztani. Tényleges életfogytig tartó szabadságvesztés csak szándékos, erőszakos bűncselekmény elkövetése miatt szabható ki.
(3) A bűncselekmény elkövetésével gyanúsított és őrizetbe vett személyt a lehető legrövidebb időn belül szabadon kell bocsátani, vagy bíróság elé kell állítani. A bíróság köteles az elé állított személyt meghallgatni és írásbeli indokolással ellátott határozatban szabadlábra helyezéséről vagy letartóztatásáról haladéktalanul dönteni.
(4) Akinek szabadságát alaptalanul vagy törvénysértően korlátozták, kárának megtérítésére jogosult.

Article XXVIII Fundamental Law [204]

(1) Everyone shall have the right to have any charge against him or her, or his or her rights and obligations in any litigation, adjudicated within a reasonable time in a fair and public trial by an independent and impartial court established by an Act. (2) *No one shall be considered guilty until his or her criminal liability has been established by the final and binding decision of a court.*

(3*) Persons subject to criminal proceedings shall have the right to defence at all stages of the procedure.* Defence counsels shall not be held liable for their opinion expressed while providing legal defence.

(4) No one shall be held guilty of or be punished for an act which, at the time when it was committed, did not constitute a criminal offence under Hungarian law or, within the scope specified in an international treaty and a legal act of the European Union, under the law of another State.

(5) Paragraph (4) shall not prejudice the prosecution and conviction of any person for any act which, at the time when it was committed, was a criminal offence according to the generally recognised rules of international law.

VIII. Chapter
The Defence
Section 41[205]

(1) A lawyer may act as a defence attorney based on a power of attorney or assignment. Where this law provides for a lawyer acting as a defence attorney, if the conditions set out in this law on lawyer activity are met, the candidate lawyer, the European Community lawyer, the employed lawyer and the employed European Community lawyer must also be understood.

(2) A prospective lawyer may act as a defence counsel alongside a lawyer or as a lawyer's deputy

a) before the indictment,

b) after the indictment in the district court, as well as in the tribunal, with the fact that he may not hold a hearing before the tribunal.

[204] Translation see above.

[205] A VÉDŐ

A védőként eljárni jogosultak köre

41. § (1) Védőként meghatalmazás vagy kirendelés alapján ügyvéd járhat el. Ahol e törvény védőként eljáró ügyvédről rendelkezik, ezen az ügyvédi tevékenységről szóló törvényben meghatározott feltételek fennállása esetén az ügyvédjelöltet, az európai közösségi jogászt, az alkalmazott ügyvédet és az alkalmazott európai közösségi jogászt is érteni kell.

(2) Ügyvédjelölt védőként ügyvéd mellett vagy ügyvéd helyetteseként eljárhat

a) a vádemelés előtt,

b) a vádemelés után a járásbíróságon, valamint a törvényszéken azzal, hogy törvényszék előtt perbeszédet nem tarthat.

(3) A terhelt és a bűncselekmény elkövetésével megalapozottan gyanúsítható személy érdekében több védő is eljárhat, több terhelt, illetve bűncselekmény elkövetésével megalapozottan gyanúsítható személy érdekében ugyanaz a védő is eljárhat.

Rights and obligations of the defender

Section 42[206]

(1) The defence attorney – unless this law provides otherwise – may fully exercise all the rights of the defendant, which by their nature are not only related to the person of the defendant. The defender can exercise these rights independently, as defender rights.

(2) In addition to what is specified in paragraph (1), the defender is entitled to

a) be present at the procedural act at which the defendant may be present or the presence of the defendant is mandatory,

b) in the cases defined by law, be present at procedural actions where the defendant cannot be present or the presence of the defendant can be restricted,

c) for the sake of protection, obtain and collect data within the framework of the possibilities and conditions provided by law, and for this purpose use a private investigator on the basis of the law on the protection of persons and property, as well as on the rules of private investigative activities.

(3) In all cases, the decision communicated to the defendant must also be communicated to his counsel.

(4) The defender is obliged

[206] A védő jogai és kötelezettségei

42. § (1) A védő – ha e törvény eltérően nem rendelkezik – teljeskörűen gyakorolhatja a terhelt mindazon jogát, amely jellegénél fogva nem csak a terhelt személyéhez fűződik. A védő e jogokat önállóan, védői jogokként gyakorolhatja.

(2) A védő az (1) bekezdésben meghatározottakon kívül jogosult arra, hogy

a) jelen legyen az olyan eljárási cselekményen, amelyen a terhelt jelen lehet vagy a terhelt jelenléte kötelező,

b) a törvényben meghatározott esetekben jelen legyen az olyan eljárási cselekményeken is, ahol a terhelt nem lehet jelen vagy a terhelt jelenléte korlátozható,

c) a védelem érdekében a jogszabályban biztosított lehetőségek és feltételek keretei között adatokat szerezzen be és gyűjtsön, és e célból a személy- és vagyonvédelmi, valamint a magánnyomozói tevékenység szabályairól szóló törvény alapján magánnyomozót vegyen igénybe.

(3) A terhelttel közölt határozatot minden esetben közölni kell a védőjével is.

(4) A védő köteles

a) a terhelttel a kapcsolatot késedelem nélkül felvenni,

b) a terhelt érdekében minden törvényes védekezési eszközt és módot kellő időben felhasználni,

c) a terheltet a védekezés törvényes eszközeiről felvilágosítani, a jogairól tájékoztatni, a kötelezettségeire figyelmeztetni,

d) a terheltet mentő, illetve a felelősségét enyhítő tények felderítését szorgalmazni,

e) akadályoztatása esetén – előre nem ismert elháríthatatlan akadály felmerülését kivéve – helyettesítéséről gondoskodni, egyidejűleg az akadályoztatás tényéről az eljáró bíróságot, ügyészséget vagy nyomozó hatóságot tájékoztatni,

f) jogait úgy gyakorolni és kötelezettségeit úgy teljesíteni, hogy azzal a büntetőeljárás időszerű lefolytatását ne akadályozza.

(5) Ha a terhelt fogva van, az eljáró bíróság, ügyészség vagy nyomozó hatóság a védő személyéről és elérhetőségéről, valamint ezek megváltozásáról haladéktalanul, de legkésőbb a terhelt befogadásakor, illetve a változásról való tudomásszerzést követő negyvennyolc órán belül tájékoztatja a fogva tartást végrehajtó intézetet.

(6) Ha a terhelt érdekében több védő jár el, a terhelt eltérő rendelkezésének hiányában vezető védőnek a meghatalmazást elsőként benyújtó védőt kell tekinteni, a meghatalmazások egyidejű benyújtása esetén a vezető védőt az eljáró nyomozó hatóság, ügyészség vagy bíróság jelöli ki. Az ügyiratokat – ideértve az idézést és az értesítést is – a vezető védőnek kell kézbesíteni. Perbeszéd tartására a vezető védő vagy az általa kijelölt védő jogosult. Jogorvoslati nyilatkozatra a vezető védő vagy az általa kijelölt védő, ezek hiányában az eljárási cselekményen jelen lévő védő jogosult.

(7) A védő jogaira és kötelezettségeire vonatkozó rendelkezéseket a bűncselekmény elkövetésével megalapozottan gyanúsítható személy jogaihoz igazodóan a bűncselekmény elkövetésével megalapozottan gyanúsítható személy védője vonatkozásában is megfelelően alkalmazni kell.

a) contact the debtor without delay,
b) to use all legal means and means of defence in due time in the interests of the defendant,
c) to inform the defendant about the legal means of defence, to inform him of his rights and to warn him of his obligations,
d) to advocate the discovery of facts that save the defendant or mitigate his responsibility,
e) in the event of obstruction – except in the event of an unforeseeable insurmountable obstruction – to arrange for his replacement, and at the same time to inform the acting court, prosecutor's office or investigative authority of the fact of obstruction,
f) to exercise his rights and fulfil his obligations in such a way as not to hinder the timely conduct of criminal proceedings.
(5) If the defendant is in custody, the trial court, prosecutor's office or investigative authority shall inform the institution executing the detention of the person and contact information of the defence counsel, as well as any changes thereof, immediately, but no later than upon admission of the defendant, or **within forty-eight hours** after becoming aware of the change.
(6) If several defence attorneys act on behalf of the defendant, unless the defendant states otherwise, the defence attorney who submitted the power of attorney first shall be considered the lead defence attorney. The case documents – including the summons and the notification – must be delivered to the lead counsel. The leading counsel or the counsel appointed by him is entitled to hold a hearing. The leading counsel or the counsel appointed by him or, in their absence, the counsel present at the procedural act are entitled to a legal remedy statement.
(7) The provisions relating to the rights and obligations of the defence counsel must be properly applied to the defence counsel of a person reasonably suspected of committing a crime, in accordance with the rights of a person reasonably suspected of committing a crime.

cc. Defence in Formal Accusation phase and the trial phase

11 For the trial phase it is important to make sure that the correct court handles the case. According to ss. 14 et seq. of the Hungarian CPC any error in this regard might be challenged as well as that the court's judges are competent to hear such an action.

Fundamental Law

Courts

Article 25[207]

(1) Courts shall administer justice. Courts are the ordinary and the administrative courts.
(2) Ordinary courts shall decide on criminal matters, civil disputes and other matters specified in an Act. The supreme organ in the ordinary court system shall be the Curia; the Curia shall ensure the uniformity of the application of law by ordinary courts, and shall make uniformity decisions which shall be binding on the ordinary courts.
(3) Administrative courts shall decide on administrative disputes and other matters specified in an Act. The supreme organ in the administrative court system shall be the Supreme Administrative Court; the Supreme Administrative Court shall ensure the uniformity of the application of law by administrative courts, and shall make uniformity decisions which shall be binding on the administrative courts.
(4) The organisation of the judiciary shall have multiple levels. Separate courts may be established for specific groups of cases.
(5) The central responsibilities of the administration of the ordinary courts shall be performed by the President of the National Office for the Judiciary. The National Judicial Council shall supervise the central administration of the ordinary courts. The National Judicial Council and other bodies of judicial self-government shall participate in the administration of the courts.
(6) The President of the National Office for the Judiciary shall be elected from among the judges by the National Assembly for nine years on the proposal of the President of the Republic. The President of the National Office for the Judiciary shall be elected with the votes of two thirds of the Members of the National Assembly. The President of the Curia shall be a member of the National Judicial Council, further members of which shall be elected by judges, as laid down in a cardinal Act. (7) An Act may provide that other organs may also act in certain legal disputes. (8) The detailed rules for the

[207] A bíróság
25. cikk
(1) A bíróságok igazságszolgáltatási tevékenységet látnak el. A legfőbb bírósági szerv a Kúria.
(2) A bíróság dönt büntetőügyben, magánjogi jogvitában, a közigazgatási határozatok törvényességéről, az önkormányzati rendelet más jogszabályba ütközéséről és megsemmisítéséről, a helyi önkormányzat törvényen alapuló jogalkotási kötelezettsége elmulasztásának megállapításáról és törvényben meghatározott egyéb ügyben.
(3) A Kúria a (2) bekezdésben meghatározottak mellett biztosítja a bíróságok jogalkalmazásának egységét, a bíróságokra kötelező jogegységi határozatot hoz.
(4) A bírósági szervezet többszintű.
(5) A bíróságok igazgatásának központi feladatait az Országos Bírósági Hivatal elnöke végzi. Az Országos Bírói Tanács felügyeli a bíróságok központi igazgatását. Az Országos Bírói Tanács és más bírói önkormányzati szervek közreműködnek a bíróságok igazgatásában.
(6) Az Országos Bírósági Hivatal elnökét a bírák közül kilenc évre a köztársasági elnök javaslatára az Országgyűlés választja. Az Országos Bírósági Hivatal elnökének megválasztásához az országgyűlési képviselők kétharmadának szavazata szükséges. Az Országos Bírói Tanács tagja a Kúria elnöke, további tagjait sarkalatos törvényben meghatározottak szerint a bírák választják.
(7) Törvény egyes jogvitákban más szervek eljárását is lehetővé teheti.
(8) A bíróságok szervezetének, igazgatásának és központi igazgatása felügyeletének, a bírák jogállásának részletes szabályait, valamint a bírák javadalmazását sarkalatos törvény határozza meg.

organisation and administration of courts and for the legal status of judges, as well as the remuneration of judges, shall be laid down in a cardinal Act.

Article 26[208]
(1) Judges shall be independent and only subordinated to Acts; they shall not be instructed in relation to their judicial activities. Judges may only be removed from office for the reasons and in a procedure specified in a cardinal Act. Judges may not be members of political parties or engage in political activities.
(2) Professional judges shall be appointed by the President of the Republic, as provided for by a cardinal Act. Only persons having reached the age of thirty years may be appointed The Fundamental Law of Hungary (as in force on 1 January 2019) This document has been produced for informational purposes only. 27 judge. Except for the President of the Curia, the President of the Supreme Administrative Court and the President of the National Office for the Judiciary, the service relationship of judges may exist until they reach the general retirement age.
(3) The President of the Curia and the President of the Supreme Administrative Court shall be elected by the National Assembly from among the judges for nine years at the proposal of the President of the Republic. The President of the Curia and the President of the Supreme Administrative Court shall be elected with the votes of two thirds of the Members of the National Assembly.

[Excerpt CPC]
Section 11[209]
The task of the court is to administer justice. The court judges and performs the tasks defined in this law in connection with criminal proceedings.

[208] 26. cikk
(1) A bírák függetlenek, és csak a törvénynek vannak alárendelve, ítélkezési tevékenységükben nem utasíthatóak. A bírákat tisztségükből csak sarkalatos törvényben meghatározott okból és eljárás keretében lehet elmozdítani. A bírák nem lehetnek tagjai pártnak, és nem folytathatnak politikai tevékenységet.
(2) A hivatásos bírákat – sarkalatos törvényben meghatározottak szerint – a köztársasági elnök nevezi ki. Bírává az nevezhető ki, aki a harmincadik életévét betöltötte. A Kúria elnöke és az Országos Bírósági Hivatal elnöke kivételével a bíró szolgálati jogviszonya az általános öregségi nyugdíjkorhatár betöltéséig állhat fenn.
(3) A Kúria elnökét a bírák közül kilenc évre a köztársasági elnök javaslatára az Országgyűlés választja. A Kúria elnökének megválasztásához az országgyűlési képviselők kétharmadának szavazata szükséges.
[209] A bíróság feladata
11. § A bíróság feladata az igazságszolgáltatás. A bíróság ítélkezik és ellátja a büntetőeljárással összefüggésben e törvényben meghatározott feladatokat.

The trial courts
Section 12[210]
(1) Acts in the first instance
a) the district court and
b) the court.
(2) He acts in the second instance
a) the tribunal in matters under the jurisdiction of the district court,
b) the judging panel in cases falling within the jurisdiction of the court,
c) the Court in cases falling within the competence of the judging panel.
(3) He acts in the third instance
a) the judgment panel in those cases in which the district court acted in the first instance,
b) the Court in those cases in which the court of first instance acted.

[210] Az eljáró bíróságok
12. § (1) Elsőfokon jár el
a) a járásbíróság és
b) a törvényszék.
(2) Másodfokon jár el
a) a törvényszék a járásbíróság hatáskörébe tartozó ügyekben,
b) az ítélőtábla a törvényszék hatáskörébe tartozó ügyekben,
c) a Kúria az ítélőtábla hatáskörébe tartozó ügyekben.
(3) Harmadfokon jár el
a) az ítélőtábla azokban az ügyekben, amelyekben elsőfokon a járásbíróság járt el,
b) a Kúria azokban az ügyekben, amelyekben elsőfokon a törvényszék járt el.

D. OLAF-Regulation

I. General Introduction: Investigation Powers and National Law Related to OLAF in Hungary (Art. 3–8 OLAF Regulation)

The Hungarian General Prosecution Office has cooperated with OLAF for investigations in the past, which can be interpreted as the EU's **inter-agency cooperation**[211]. On its website it displays its connection with OLAF and that it has always performed judicial recommendations or financial recommendations and transferred them to the national authorities if OLAF asked them to do so in the past: **1**

"An organ of the European Union, its task is to detect and investigate abuses committed at the expense of the EU budget. Its scope includes:

- all EU payments,
- certain EU payments (duties),
- investigation of serious breaches of obligations by EU employees and institutions.

Their procedures are aimed at uncovering administrative irregularities, at the end of which:

- administrative,
- financial,
- or judicial recommendations"

they do.

The office uses e.g. a **judicial recommendation**[212] if, in their opinion, a crime may be suspected. Based on the recommendation, the competent bodies of the member state decide on the order of the investigation. The Hungarian prosecutor's office continuously cooperates with OLAF. The Hungarian prosecutor's office – although it is not obliged to do so – either ordered an investigation following every OLAF judicial recommendation, or if there was already an ongoing investigation into the case, it was evaluated as part of the investigation. According to OLAF's 2019 annual report, the Hungarian prosecutor's office prosecutes significantly more than the EU average (39%) in cases affected by OLAF's judicial recommendations (47%).

The number of OLAF's judicial recommendations has steadily decreased in recent years:

- in 2015–2016 ten to ten,
- in 2017, six
- in 2018, four
- In 2019, three recommendations were received.

[211] For this term see the study of Turksen, Vozza, Kreissl, Rasmouki 2023, 244 and 250 et seq. shortly explanining the role of OLAF in fighting tax frauds.

[212] See European Supervisory Committee (OLAF) 2017, p. 4 analysing how many recommendations were followed and why some were not (a main reason was that statues of limitations in national proceedings were an obstacle).

Both OLAF and the Hungarian Prosecutor's Office attach great importance to the effective exchange of information and cooperation between the organisations, which is also reinforced by the meetings between the Directors General of OLAF and the Chief Prosecutor."[213]

2 OLAF's **task and role** as well as it actions are determined primarily by Union law. The history of OLAF can be traced back to the early 2000s and its predecessor UCLAF.[214] OLAF has a renewed role within the changed anti-fraud architecture of the Union in the 2020s and is an important actor against fraud within the Multi-annual framework legislation and the Union's policies, which depend on the action of the Member States and the agreements concluded on the political levels.

3 In addition to that OLAF and its investigators shall follow **internal guidelines**[215], manuals on procedures[216] reports and **working arrangements** with union partners[217] as well as Administrative Cooperation Agreements (ACAs) with national partners, EU external actors[218]. OLAF issues compendia, researches itself, organizes meetings and conferences and workshops for its national partners. All of these non-binding guides and handbooks might be useful in the course of investigations.[219] The **statistics** on latest actions and the past year can be deduced from the OLAF Reports, equal to the new **EPPO's annual report** and the **PIF Report**, which is issued by the EU Commission in close cooperation with OLAF, IBOAs and the EPPO as well as the input from ECA and national AFCOS, governments and researchers.

4 OLAF is well accommodated in the Union **anti-fraud architecture** these days and the academic research is extensive and long lasting since the 2000s.[220] Last decade's landmark judgement "*Sigma Orionis SA vs European Commission*", decided by the

[213] See http://ugyeszseg.hu/az-ugyeszsegrol/nemzetkozi-kapcsolatok/bunugyi-egyuttmukodes-a-kulfoldi-ugyeszsegekkel/. Accessed 31 December 2024.
[214] See Hauck (*soon to be published*), EU Fraud Commentary, Chronology Chapters 3 and 4 as well as the Commentary on Art. 1 OLAF Regulation.
[215] See European Commission 2021a; European Commission (OLAF) 2016 and see Supervisory Committee of OLAF 2024.
[216] Brüner 2009, whereby it is unclear if certain manuals are really still used by investigators and the Office staff.
[217] OLAF, Working Arrangement between EPPO & OLAF, Point 4: "Exchange of information", 4.5 and 4.6 (cross double check between the databases for a PIF offence action), 5 ("Mutual Reporting and transmittsion of potential cases"), 5.1, 5.1.1.European Commission – "Agreement establishing the modalities of cooperation between the European Commission and the European Public Prosecutor's Office"18 June 2021, Art 5 para 1, 4, 5 ("Reporting by the Commission") in combination with Annex I Contact points: "information will be trasnmitted via the head of OLAF to the head of operation at EPPO/central office", Annex III.A ("Information on the Initiation of an Investigation – template") and see Supervisory Committee of OLAF 2021a, 2021b, 2021c.
[218] Prosecution Office of Hungary and OLAF 2022. Administrative Cooperation Arrangements (ACAs) with partner authorities in non-EU countries and territories and counterpart ad-ministrative investigative services of International Organisations.
[219] See European Commission 2011; European Commission 2017a; European Commission (OLAF) 2021b; European Commission 2017b. Accessed 31 December 2024; EU Commission (DG Policy, U 2) Handbook, The role of Member States' auditors in fraud prevention and detection for EU Structural and Investment Funds Experience and practice in the Member States; European Commission 2021a and see OECD 2019.
[220] Brüner 2001, pp. 17–26; Brüner 2009, p. 1 et seq.; Brüner 2008, pp. 859–872; Gellert 2009, pp. 85–88.

European General Court[221], clarified the application of national law and Union law[222] in relation to external investigations of OLAF.[223] In the light of this jurisprudence the resistance to the actions of OLAF, in order to awaken national law, might be a defence strategy that Economic operators use. If this is the case, OLAF has to rely on national homologue investigators and thus as well limitations, thresholds and conditions of national law ie investigative powers in various areas of budget spending and structural funds (direct management) and revenue-related obligations (indirect management).

Current debates evolve around the effectiveness of investigations with regard to digital evidence by virtue of the **Regulation 2185/96**, which stems in parts from a more analogue society.[224] More and more questions are raised if the analogue society in law enforcement and the area of criminal justice is a problem of the digital age and presents obstacles to effective investigations. The access to bank accounts and registers if highly important for OLAF investigators as well as their national homologues. External investigations require a good coordination, which shall be governed by the relevant AFCOS (see below → Art. 12a OLAF Regulation). **5**

Another question and debate has ever since existed concerning the **reports of OLAF** (see → Art. 11 OLAF Regulation), which can and shall constitute evidence – even – in national criminal trials. This area has been well researched by in OLAF studies from the last decade, which we can refer to.[225] **6**

The next part presents the relevant laws – including the recently adopted on-the-spot checks laws (in relation to **Regulation (EC) 2185/96**) of certain countries – in relation to investigations and investigative powers as well as examples from case law and trials, which relied upon evidence gathered by OLAF. In addition to the analysis parts of this chapter mentioned above the national authorities and the role of the AFCOS, which has a special role in the Union's antifraud architecture. **7**

The following pages show the **objectives**, **tasks** and **major definitions**, which shall be recalled for the analysis of the connections to Hungarian national law and the overall structure of an OLAF investigation: What is the aim of it? What is an irregularity? Who does/shall/must interact with OLAF?[226] **8**

[221] GC (aka CFI), Case T-48/16, 3.5.2018, Sigma Orionis SA v. Commission, paras. 70 et seq., 80–81 published in the electronic Reports of Cases (Court Reports – general) and in the OJ, 01/06/2018.
[222] See De Bellis 2021, pp. 431 et seq.; Herrnfeld 2021, p. 426 et seq.; recently Wouters 2020, pp. 132 et seq.
[223] De Bellis 2021, pp. 431 et seq.; see OLAF Website, List of rulings of the Court of Justice of the EU concerning OLAF, https://bit.ly/432XGPM Accessed 31 December 2024.
[224] See in general Carrera and Mitsilegas 2021.
[225] See on the whole area Luchtman and Vervaele 2017.
[226] See Bovend'Eerdt 2024, pp. 68, 97, 129 explaning the system with the examples of Germany and the Netherlands; p. 132: "While OLAF's access to information is, due to the assimilation rule, largely dictated by the law of the Member State in which OLAF deploys an on-the-spot check, certainly not all aspects of a check are, at least prima facie (solely) within the domain of national law."

1. Article 1 (Objectives and tasks)

1. In order to step up the fight against fraud, corruption and any other illegal activity affecting the financial interests of the European Union and of the European Atomic Energy Community (hereinafter referred to collectively, when the context so requires, as 'the Union'), the European Anti-Fraud Office established by Decision 1999/352/EC, ECSC, Euratom ('the Office') shall exercise the powers of investigation conferred on the Commission by:
(a) The relevant Union acts; and
(b) The relevant cooperation and mutual assistance agreements concluded by the Union with third countries and international organisations.
2. The Office shall provide the Member States with assistance from the Commission in organising close and regular cooperation between their competent authorities in order to coordinate their action aimed at protecting the financial interests of the Union against fraud. The Office shall contribute to the design and development of methods of preventing and combating fraud, corruption and any other illegal activity affecting the financial interests of the Union. The Office shall promote and coordinate, with and among the Member States, the sharing of operational experience and best procedural practices in the field of the protection of the financial interests of the Union, and shall support joint anti-fraud actions undertaken by Member States on a voluntary basis.
3. This Regulation shall apply without prejudice to:
(a) Protocol No 7 on the privileges and immunities of the European Union attached to the Treaty on European Union and to the Treaty on the Functioning of the European Union;
(b) the Statute for Members of the European Parliament;
(c) the Staff Regulations;
d) Regulation (EU) 2016/679 of the European Parliament and of the Council;
(e) Regulation (EU) 2018/1725 of the European Parliament and of the Council
4. Within the institutions, bodies, offices and agencies established by, or on the basis of, the Treaties ('institutions, bodies, offices and agencies'), the Office shall conduct administrative investigations for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the Union. To that end, it shall investigate serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of officials and other servants of the Union liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or staff members of institutions, bodies, offices or agencies not subject to the Staff Regulations (hereinafter collectively referred to as 'officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members').
4a. The Office shall establish and maintain a close relationship with the European Public Prosecutor's Office (EPPO) established in enhanced cooperation by Council Regulation (EU) 2017/1939 (3). That relationship shall be based on mutual cooperation,

information exchange, complementarity and the avoidance of duplication. It shall aim in particular to ensure that all available means are used to protect the financial interests of the Union through the complementarity of their respective mandates and the support provided by the Office to the EPPO.
5. For the application of this Regulation, competent authorities of the Member States and institutions, bodies, offices and agencies may establish administrative arrangements with the Office. Those administrative arrangements may concern, in particular, the transmission of information, the conduct of investigations and any follow-up action.

Art. 2 of the OLAF Regulation contains definitions, which apply for all assessments of Seconded National Experts, Investigators, AFCOS staff or national authorities managing structural funds or other EU programmes in Hungary. It might be cited e.g. for an OLAF Report (see → Art. 11 below) in order to subsume an irregulariry scheme or a (fraudulent) conduct, which was investigated. **9**

2. Article 2 (Definitions)

The definitions have legal value and force. They stem from the original legislator of the Regulation. They are open to interpretation by parties and courts:
For the purposes of this Regulation:
(1) 'financial interests of the Union' shall include revenues, expenditures and assets covered by the budget of the European Union and those covered by the budgets of the institutions, bodies, offices and agencies and the budgets managed and monitored by them;
(2) 'irregularity' shall mean 'irregularity' as defined in Article 1(2) of Regulation (EC, Euratom) No 2988/95;
(3) 'fraud, corruption and any other illegal activity affecting the financial interests of the Union' shall have the meaning applied to those words in the relevant Union acts and the notion of 'any other illegal activity' shall include irregularity as defined in Article 1(2) of Regulation (EC, Euratom) No 2988/95;
(4) 'administrative investigations' ('investigations') shall mean any inspection, check or other measure undertaken by the Office in accordance with Articles 3 and 4, with a view to achieving the objectives set out in Article 1 and to establishing, where necessary, the irregular nature of the activities under investigation; those investigations shall not affect the powers of the EPPO or of the competent authorities of Member States to initiate and conduct criminal proceedings;
(5) 'person concerned' shall mean any person or economic operator suspected of having committed fraud, corruption or any other illegal activity affecting the financial interests of the Union and who is therefore subject to investigation by the Office;
(6) 'economic operator' shall have the meaning applied to that term by Regulation (EC, Euratom) No 2988/95 and Regulation (Euratom, EC) No 2185/96;
(7) 'administrative arrangements' shall mean arrangements of a technical and/or operational nature concluded by the Office, which may in particular aim at facilitating the

cooperation and the exchange of information between the parties thereto, and which do not create additional legal obligations;
(8) 'member of an institution' means a member of the European Parliament, a member of the European Council, a representative of a Member State at ministerial level in the Council, a member of the Commission, a member of the Court of Justice of the European Union (CJEU), a member of the Governing Council of the European Central Bank or a member of the Court of Auditors, with respect to the obligations imposed by Union law in the context of the duties they perform in that capacity.

3. Article 3 (External investigations)

Art. 3 External investigations

[…] 2. The Office shall *carry out on-the-spot checks and inspections in accordance with this Regulation and, to the extent not covered by this Regulation, in accordance with Regulation (Euratom, EC) No 2185/96.*

4. Where, in accordance with paragraph 3 of this Article, the *economic operator concerned submits* to an on-the-spot check and inspection authorised pursuant to this Regulation, Article 2(4) of Regulation (EC, Euratom) No 2988/95, the third subparagraph of Article 6(1) of Regulation (Euratom, EC) No 2185/96 and Article 7(1) of Regulation (Euratom, EC) No 2185/96 *shall not apply insofar as those provisions require compliance with national law* and are capable of restricting access to information and documentation by the Office to the same conditions as those that apply to national administrative inspectors.

5. At the request of the Office, the *competent authority of the Member State* concerned shall, without undue delay, provide the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation referred to in Article 7(2).

The *Member State concerned shall ensure*, in accordance with Regulation (Euratom, EC) No 2185/96, that the *staff of the Office are allowed access to all information, documents and data relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspections to be carried out effectively and efficiently, and that the staff are able to assume custody of documents or data to ensure that there is no danger of their disappearance.* Where privately owned devices are used for work purposes, those devices may be subject to inspection by the Office. The Office shall subject such devices to inspection only under the same conditions and to the same extent that national control authorities are allowed to investigate privately owned devices and where the Office has reasonable grounds for suspecting that their content may be relevant for the investigation.

6. Where the staff of the Office find that an *economic operator resists* an on-the-spot check and inspection authorised pursuant to this Regulation, namely where the economic operator refuses to grant the Office the necessary access to its premises or any other areas used for business purposes, conceals information or prevents the conduct of any of the activities that the Office needs to perform in the course of an on-the-spot check and inspection, the *competent authorities, including, where appropriate, law enforcement authorities of the Member State concerned shall afford the staff of the Office the necessary assistance so as to enable the Office to conduct its on-the-spot check and inspection effectively and without undue delay.*

Article 2(4) of Regulation (EC, Euratom) No 2988/95

Subject to the Community law applicable, the procedures for the application of Community checks, measures and penalties shall be governed by the laws of the Member States.

the third subparagraph of Article 6(1) of Regulation (Euratom, EC) No 2185/96

~~On-the-spot checks and inspections shall be carried out on the Commission's authority and responsibility by its officials or other servants, duly empowered, hereinafter called 'Commission inspectors'. Persons placed at the disposal of the Commission by the Member States as national experts on secondment may assist in such checks and inspections.~~

~~Commission inspectors shall exercise their powers on production of a written authorization showing their identity and position, together with a document indicating the subject-matter and purpose of the on-the-spot check or inspection.~~

Subject to the Community law applicable, they shall be required to comply, with the rules of procedure laid down by the law of the Member State concerned.

Article 7(1) of Regulation (Euratom, EC) No 2185/96

Commission inspectors shall have access, under the same conditions as national administrative inspectors and in compliance with national legislation, to all the information and documentation on the operations concerned which are required for the proper conduct of the on-the-spot checks and inspections. They may avail themselves of the same inspection facilities as national administrative inspectors and in particular copy relevant documents.

On-the-spot checks and inspections may concern, in particular:

- professional books and documents such as invoices, lists of terms and conditions, pay slips, statements of materials used and work done, and bank statements held by economic operators,
- computer data,
- production, packaging and dispatching systems and methods,
- physical checks as to the nature and quantity of goods or completed operations,
- the taking and checking of samples,
- the progress of works and investments for which financing has been provided, and the use made of completed investments,
- budgetary and accounting documents,
- the financial and technical implementation of subsidized projects.]

When providing assistance in accordance with this paragraph or with paragraph 5, the competent authorities of Member States *shall act in accordance with national procedural rules applicable to the competent authority concerned. If such assistance requires authorisation from a judicial authority in accordance with national law*, such authorisation shall be applied for.

10. As part of its investigative function, the Office shall carry out the checks and inspections provided for in Article 9(1) of Regulation (EC, Euratom) No 2988/95 and in the sectoral rules referred to in Article 9(2) of that Regulation in Member States and, *in accordance with cooperation and mutual assistance agreements and any other legal instrument in force*, in third countries and on the premises of international organisations.

12. Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an external investigation, the Office handles information which suggests

that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the competent authorities of the Member States concerned and, where necessary, the institutions, bodies, offices and agencies concerned.
Without prejudice to the sectoral rules referred to in Article 9(2) of Regulation (EC, Euratom) No 2988/95, the competent authorities of the Member States concerned shall ensure that appropriate action is taken, in which the Office may take part, *in accordance with national law*. Upon request, the competent authorities of the Member States concerned shall inform the Office of the action taken and of their findings on the basis of information referred to in the first subparagraph of this paragraph.

1 On-the-spot checks have been discussed in the last decade quite thoroughly[227], but not enough for all countries. For Hungary, it is worth taking a closer look at the applicable provisions.

a) On the spot-checks and inspections – Renouncing the applicable national law – Para 2, 4

2 The national law is renounced if the economic operator, the beneficiary, the grant recipient etc. submits to the investigation of the Office. In this case Union law applies.

b) Assistance needed, competent authorities and access to information in the Member States, para 5

3 Even in the case that Union law applies, OLAF may need the help and information from national authorities in the Member states (managing authorities, control bodies, customs and tax offices, etc.).

c) Resistance by the economic operator vs. law enforcement and effective investigations, para 6 or the new model and the relevance of resistance or conformity of the Economic Operator

4 If the economic operator, the beneficiary, the grant recipient etc. resists this conduct it can have an effect on the applicability of law. The ECJ rules in *Sigma Orionis* that national law applies in the case of resistance, which means that the investigations need to be in conformity with the national law applicable in similar national investigations.

[227] See Bovend'Eerdt 2018; see recently even more in-depth Bovend'Eerdt 2024, pp. 68, 436.

d) The basic principle of conformity to Regulations 2185/96 and 883/2013

aa. Submission: Compliance with Union law

In the case of compliance of an Hungariann Economic Operator Union law applies, thus the Regulation allows OLAF officials to conduct on-the-spot checks without prior information of national authorities. **5**

bb. Resistance: Assistance in conformity with national procedural rules applicable

Does the participant, the personal or Econcomic operator concerned resist, the Regulation indicates that OLAF has to follow national law and inform national authorities that can provide assistance in conformity with national procedural rules applicable.[228] **6**

e) Competent authorities

The table shows non-extensively the most important competent authorities, which need to be contacted if the Economic operator resists and thus national law applies if OLAF wants to conduct investigations into irregularities: Who is responsible depends on which area is affected (direct or shared management) and which type of irregularity or fraud is suspected, as well as in which payment (expenditure) or payment (revenue) area. **7**

Table 9: Competent authorities for on-the-spot check Art. 3 OLAF Regulation

Term	Original Term	Tasks
Government Accountability Office[229]	Kormányzati Ellenőrzési Hivatal	Audits
Customs Area	Európai Ügyek Minisztériuma Gazdaságfejlesztési Minisztérium	European Affairs, Economic Development
National Tax and Customs Administrations Office	NAV – Nemzeti Adó- és Vámhivatal	Revenue
Tax Area **National Tax and Customs Administrations Office** **Budget Area**	NAV – Nemzeti Adó- és Vámhivatal	Revenue
Hungarian Audit Office **Ministries**	Állami Számvevőszék	Audits

[228] ECJ, Case T-48/16, *Sigma Orionis v the Commission*, mn. 112: "Finally, it should be noted that, according to the rules applicable to the actions carried out by OLAF, the requirement to obtain a judicial authorisation, if provided for by national law, only applies in the case of an objection raised by the economic operator and that OLAF must then have recourse to national police forces which, according to the rules applicable to them, must comply with national law."

[229] See http://kehi.kormany.hu/link. Accessed 31 December 2024.

	Miniszterelnöki Kabinetiroda Agrárminisztérium Honvédelmi Minisztérium Pénzügyminisztérium Energiaügyi Minisztérium Építési és Közlekedési Minisztérium Külgazdasági és Külügyminisztérium Kulturális és Innovációs Minisztérium Belügyminisztérium Igazságügyi Minisztérium Miniszterelnöki Hivatal	Expenditure of EU Money and Audits (e.g. in the area of structural funds)
Hungarian State Treasury[230]	Magyar Államkincstár	Financial Management, Risks, Executing Government policies
Within the Ministries: **The Internal Audit and Integrity Directorate**		For EU Funds and Subsidies: Chapter 15/A. Duties of the Internal Audit and Integrity Directorate 31/A.[231] § The Internal Audit and Integrity Directorate a) carry out a sample check of declarations

[230] See http://www.allamkincstar.gov.hu/. Accessed 31 December 2024.

[231] 15/A. A Belső Ellenőrzési és Integritási Igazgatóság feladatai
31/A. § A Belső Ellenőrzési és Integritási Igazgatóság
a) az e rendeletben meghatározottak szerint elvégzi az összeférhetetlenségi nyilatkozatok és az érdekeltségi nyilatkozatok mintavételes ellenőrzését, valamint kivizsgálja az összeférhetetlenség megállapítására irányuló bejelentéseket,
b) azonosítja a lehetséges összeférhetetlenségi helyzeteket, ennek keretében kockázatelemzést végez,
c) gondoskodik a fejlesztéspolitikai intézményrendszer szereplőinek az összeférhetetlenségi helyzetek elkerülésével kapcsolatos tudatossága növeléséről,
d) tevékenységéről évente beszámol az Integritás Hatóság részére,
e) együttműködik a büntetőeljárásban eljáró szervekkel.
31/B. § A Belső Ellenőrzési és Integritási Igazgatóság jogorvoslati feladatai keretében elbírálja a kifogásokat és a jogorvoslati kérelmeket, biztosítja ezen döntések egységességét.

		of conflict of interest and declarations of interest as specified in this decree, as well as investigate notifications aimed at establishing a conflict of interest, b) identifies potential conflict of interest situations and carries out a risk analysis within this framework, c) ensures that the actors of the development policy institutional system are more aware of avoiding conflict of interest situations, d) reports on its activities annually to the Integrity Authority, e) cooperates with the bodies involved in criminal proceedings. 31/B. § The Internal Audit and Integrity Directorate evaluates objections and requests for legal remedies within the framework of its legal remedial tasks, and ensures the uniformity of these decisions.
Directorate-General for European Aid Audit	Európai Támogatásokat Auditáló Főigazgatóság	

Source: The authors.

f) National law and "checks and inspections" of OLAF in Hungary

8 Investigators have special obligations – not only under criminal law[232], but as well under administrative law.[233] And some explanations remain the same for nearly every country: "An administrative authority may normally proceed as it thinks best, collecting evidence and hearing witnesses until it is able to decide the facts and deal with the cas properly on the merits. In some cases a more formal trial may be held, but that is relatively unusual."[234]

aa. Administrative procedure in general

9 The administrative procedure in Hungary is of particular importance. The administrative procedure in the tax area is different to administrative measures in the customs area. These area are already governed by **different laws** containing different provisions on administrative measures or regular audits. The Law CLII from 2017, the Customs Law e.g. contains provisions on the administrative procedure in ss. 1–20. The main principles are stipulated by ss. 1–6 of this law.

10 The 2016 Law CL.to the general administrative procedure regulates the administrative procedure in Hungary and the fundamental principles:

11 **Section 1**[235] **[Role of Principles]** In official procedures – according to Basic Law XXIV. and XXVIII. – All parties to the procedure act in accordance with the rules applicable to them and at all stages of the procedure by enforcing the basic principles and ground rules set out in this chapter.

[232] See above for an assessement on criminal investigations in the PIF area and see the comment by Turksen et al. (2023), p. 237: "Regardless of the jurisdiction they operate, investigators of tax crimes under criminal law have common duties and responsibilities."

[233] See already OECD 1997, https://dx.doi.org/10.1787/5kml6198lvkf-en, which shows how early the interest of the EU Commission and other international organizations concentrated on "Eastern Europe", pp. 2136; Bovend' Eerdt 2024, pp. 54, 68, 161 et seq.: "OLAF must bridge the gap from EU administrative investigation or coordination cases to national punitive follow-up"; 436 OLAF's investigations cannot according to him not be compared easily to those of DG Comp; 573 on diverging standards; In short, at one point or another.

[234] Ibid, p. 21.

[235] ALAPELVEK ÉS A TÖRVÉNY HATÁLYA
1.Alapelvek
1. §[Az alapelvek szerepe]
A közigazgatási hatósági eljárásokban – összhangban az Alaptörvény XXIV. és XXVIII. cikkével – az eljárás minden résztvevője a rá irányadó szabályoknak megfelelően és az eljárás minden szakaszában az e fejezetben meghatározott alapelvek és alapvető szabályok érvényre juttatásával jár el.

Section 2[236] **[Legal principle]**
(1) The public administrative authority (hereinafter: authority) acts on the basis of the statutory authorization in the exercise of its powers within the framework of the law and in accordance with its intended purpose.
(2) The Authority in the exercise of its powers
a) in accordance with the requirements of professionalism, simplicity, cooperation with the customer and good faith,
b) compliance with the principle of equality before the law and equal treatment without unjustified discrimination and bias,
c) within the period prescribed by law in a reasonable time acts.

Hungary has been facing EU **conditionality sanctions** because of a situation that hampers the protection of the Union's interests. The legislature has, in the meantime, amended certain laws and issued new ones in order to get access to EU funds in 2022 and 2023. The current Multi Annual Framework and the recovery sums of the Covid Legislation have not yet been fully granted as the accusation of the Commission proved partly to be correct. The new laws address the control procedure and the authorities that combat fraud in Hungary.[237] **12**

First of all, the **Law XLIV on the Directorate-General for the Examination of European Grants** and on the amendment of certain laws adopted at the request of the European Commission in order to successfully complete the conditionality procedure from 2022 can be mentioned. Administrative powers in this area have been granted to the General Direction. The General Direction is an administrative state body that has the special competence to conduct controls in the areas of EU grants. [238] **13**

Chapter II. Tasks of the General Directorate **14**
6. Control and audit authority tasks of the General Directorate
Section 6[239] (1) The Directorate General sees the establishment of general provisions for the European Regional Development Fund, the European Social Fund and the

[236] 2. §[A jogszerűség elve] (1) A közigazgatási hatóság (a továbbiakban: hatóság) jogszabály felhatalmazása alapján, hatáskörét a jogszabály keretei között, rendeltetésszerűen gyakorolva jár el.
(2) A hatóság a hatásköre gyakorlása során
a) a szakszerűség, az egyszerűség, az ügyféllel való együttműködés és a jóhiszeműség követelményeinek megfelelően,
b) a törvény előtti egyenlőség és az egyenlő bánásmód követelményét megtartva, indokolatlan megkülönböztetés és részrehajlás nélkül,
c) a jogszabályban meghatározott határidőn belül, észszerű időben
jár el.
[237] Critiqually see Scheppele, Mészáros G and Bárd 2022.
[238] Ibid.
[239] 6. A Főigazgatóság ellenőrzési hatósági és audithatósági feladatai
6. § (1) A Főigazgatóság ellátja az Európai Regionális Fejlesztési Alapra, az Európai Szociális Alapra és a Kohéziós Alapra vonatkozó általános rendelkezések megállapításáról és az 1260/1999/EK rendelet hatályon kívül helyezéséről szóló, 2006. július 11-i 1083/2006/EK tanácsi rendeletben, valamint az előcsatlakozási támogatási eszköz (IPA) létrehozásáról szóló 1085/2006/EK tanácsi rendelet végrehajtásáról szóló, 2007. június 12-i

Cohesion Fund and the repeal of Regulation 1260/1999/EC of July 11, 2006 1083/2006/Control before official tasks, those set out in the EC Council Regulation and Commission Regulation 718/2007/EC of 12 June 2007 implementing Council Regulation/EC 1085/2006 establishing the Instrument for Pre-Accession Assistance (IPA) for the 2007 programming period 2013
(2) It is provided by the Directorate-General for the 2014-2020 programming period
a) with the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the Fund for European Aid to the Most Deprived, the European Maritime and Fisheries Fund and the Youth Employment Initiative,
b) the Asylum, Migration and Integration Fund,
c) with the Internal Security Fund,
d) with the Danube Transnational Programme,
e) with the cooperation program Interreg VA Slovakia-Hungary,
f) with the cooperation program Interreg VA Hungary-Croatia,
g) with the Interreg-IPA Hungary-Serbia program for cross-border cooperation,
h) with the cross-border cooperation program Hungary-Slovakia-Romania-Ukraine ENI associated tasks of the audit authority.
(3) It is provided by the Directorate-General for the 2021-2027 programming period
a) with the European Regional Development Fund,
b) with the European Social Fund Plus,
c) with the Cohesion Fund,
d) with the European Maritime, Fisheries and Aquaculture Fund,
e) with the Just Transition Fund,
f) the Asylum, Migration and Integration Fund,

718/2007/EK bizottsági rendeletben meghatározott ellenőrzési hatósági feladatokat a 2007–2013 programozási időszak tekintetében.
(2) A Főigazgatóság ellátja a 2014–2020 programozási időszak tekintetében
a) az Európai Regionális Fejlesztési Alappal, az Európai Szociális Alappal, a Kohéziós Alappal, a Leginkább Rászoruló Személyeket Támogató Európai Segítségnyújtási Alappal, az Európai Tengerügyi és Halászati Alappal, valamint az ifjúsági foglalkoztatási kezdeményezéssel,
b) a Menekültügyi, Migrációs és Integrációs Alappal,
c) a Belső Biztonsági Alappal,
d) a Duna Transznacionális Programmal,
e) az Interreg V-A Szlovákia–Magyarország Együttműködési Programmal,
f) az Interreg V-A Magyarország–Horvátország Együttműködési Programmal,
g) az Interreg-IPA Magyarország–Szerbia Határon Átnyúló Együttműködés Programmal,
h) a Magyarország–Szlovákia–Románia–Ukrajna ENI Határon Átnyúló Együttműködési Programmal
kapcsolatos audithatósági feladatokat.
(3) A Főigazgatóság ellátja a 2021–2027 programozási időszak tekintetében
a) az Európai Regionális Fejlesztési Alappal,
b) az Európai Szociális Alap Plusszal,
c) a Kohéziós Alappal,
d) az Európai Tengerügyi, Halászati és Akvakultúra-alappal,
e) az Igazságos Átmenet Alappal,
f) a Menekültügyi, Migrációs és Integrációs Alappal,
g) a Belső Biztonsági Alappal,
h) a Határigazgatási és Vízumpolitikai Eszközzel és a
i) a Szomszédsági, Fejlesztési és Nemzetközi Együttműködési Eszközzel
kapcsolatos audithatósági feladatokat.

g) with the Internal Security Fund,
h) with the Instrument for Border Management and Visa Policy and a
i) with the Neighbourhood, Development and International Cooperation Instrument
associated **tasks of the audit authority**.

The European Support Auditing Directorate (*Főigazgatóság*) is an autonomous body overseeing EU fund usage in Hungary, auditing projects, **ensuring compliance**, and reporting findings to Parliament. It reviews applications, monitors expenditures, verifies compliance, and reports to Parliament. The law describes e.g. the audit initiation, ss. 12-14. It follows an approved audit manual based on EU and national laws. Audits are pre-announced (5 days prior) unless it would compromise effectiveness. Inspectors are given official authorization (*megbízólevél*). They can access records, premises, and data (even classified). On-top they can request written/oral information and engage experts if needed. Findings shall be documented with evidence such as copies, reports, and recordings. Audits may be suspended or terminated if necessary (e.g., missing documents). A draft report is shared with the audited party for comments (15-22 days). Final reports must include accepted corrections and enforcement and follow-up (§17-18) are controlled. Any audited entities must create an action plan within 20-30 days and provide updates. Further legislation for **common administrative procedures** is explored below. **15**

bb. Special administrative powers and provisions in certain areas of revenue and expenditure

As 2016 Law XL. does not apply in the area of tax and customs investigation (see § 8 para 1 c), special Acts need to be consulted for this matter. **16**

cc. Administrative provisions

The administrative provisions are explored because they are important for any managing authority granting funds or investigating irregularities. **17**

(1) Administrative provisions in the area of customs duties and value added tax (VAT) = revenue

(a) Principle of investigation

All laws governing the different areas – either revenue-related or expenditure-related contain different provisions on the principle of investigation – either *ex officio* or based on the presumption of the authority.[240] The Customs Area, which is regulated by Law CLII 2017 contains two provisions enabling the authorities to operate on the basis of the legality principle: **18**

[240] See already OECD 1997, p. 27. The new act contains this rule as well, see 2016. évi CL. törvény az általános közigazgatási rendtartásról. Section 39 [Types of procedure] The application may be decided in an automatic decision-making procedure, a summary procedure or a full procedure. The law may exclude the application of the summary procedure in certain cases.

§ 4 [Legality principle][241]
(1) The customs authority acts on the basis of the authorization of the law and exercises its powers within the framework of the law and according to its purpose.
(2) The customs authorities in the exercise of their powers
a) in accordance with professionalism, reasonableness, cooperation with the client and good faith,
b) compliance with the principle of equality before the law and equal treatment without unjustified discrimination and bias,
c) within the period specified in the Customs Laws in a reasonable time
acts.
(3) For reasons of professionalism and economy, the customs authority organizes its activities in such a way that it causes the lowest costs for all those involved in the procedure and the customs administration procedure can be completed as quickly as possible.

Section 5 [Official principle][242]
With the exception of procedures that can only be initiated upon request, the customs authority initiates an ex officio procedure on the basis of customs law, in which it can establish the facts ex officio, determine the nature and extent of the evidence and can review its own decision and procedures under customs law.

Section 9[243] **[Jurisdiction, authority, competence]**
(1) The customs authority examines its jurisdiction, powers and competence ex officio at every stage of the procedure.

[241] 4. § [Jogszerűség elve]
(1) A vámhatóság jogszabály felhatalmazása alapján, hatáskörét a jogszabály keretei között, rendeltetésszerűen gyakorolva jár el.
(2) A vámhatóság a hatásköre gyakorlása során
a) a szakszerűség, az észszerűség, az ügyféllel való együttműködés és a jóhiszeműség követelményeinek megfelelően,
b) a törvény előtti egyenlőség és az egyenlő bánásmód követelményét megtartva, indokolatlan megkülönböztetés és részrehajlás nélkül,
c) a vámjogszabályokban meghatározott határidőn belül, észszerű időben
jár el.
(3) A vámhatóság a szakszerűség és a hatékonyság érdekében úgy szervezi meg a tevékenységét, hogy az az eljárás valamennyi résztvevőjének a legkevesebb költséget okozza, és a vámigazgatási eljárás a lehető leggyorsabban lezárható legyen.

[242] 5. § [A hivatalbóliság elve]
A vámhatóság a kizárólag kérelemre indítható eljárások kivételével a vámjogszabályok alapján hivatalból eljárást indít, amely során hivatalból állapítja meg a tényállást, határozza meg a bizonyítás módját és terjedelmét, és a vámjogszabályok keretei között felülvizsgálhatja a saját döntését és eljárásait.

[243] 9. § [Joghatóság, hatáskör, illetékesség]
(1) A vámhatóság a joghatóságát, hatáskörét és illetékességét az eljárás minden szakaszában hivatalból vizsgálja.
(2) Ha a vámhatóság hatáskörének vagy illetékességének a hiányát észleli, és kétséget kizáróan megállapítható az ügyben hatáskörrel vagy illetékességgel rendelkező hatóság vagy szerv, akkor a vámjogszabályok eltérő rendelkezése hiányában az ügyfél egyidejű értesítése mellett az ügyet 8 napon belül átteszi.
(3) Ha a 39. § szerinti kérelmet másik tagállam vámhatóságának kell befogadnia, akkor erről az ügyfelet tájékoztatni kell.

(2) If the customs authority detects a lack of authority or competence, and the authority or body with authority or competence in the case can be established beyond a doubt, then, unless otherwise provided by the customs legislation, the case will be transferred within 8 days with the simultaneous notification of the customer.
(3) If the application according to § 39 is to be received by the customs authorities of another member state, the customer must be informed of this.

S. 16 of this Customs Law ensures that the parties involved have access to the documents of the administrative customs procedure. **19**

The principle of investigation is established in different laws. The General Administrative Law 2016 provides for a provision that demands the clarification of facts in order to gather evidence: **20**

Section 62 [Clarification of the Facts]
(1) If the available data is not sufficient for a decision-making, the authority conducts evidentiary proceedings.
(2) In official proceedings, all evidence suitable for clarifying the facts may be used. Evidence unlawfully obtained by the authority cannot be used as evidence.
(3) Facts that are officially and generally known to the authority do not need to be proven.
(4) The authority chooses the route of evidence freely and evaluates the available evidence according to free conviction.
(5) For compelling reasons of public interest, the use of a document or other document as evidence can be prescribed by law or government regulation in individual cases.

(b) External audit

External audits can be conducted in various areas of EU spending.[244] Major areas are the customs, tax and grant spending area. In the **grant spending** area the Legislator has introduced a far-fetched provision asking the competent body to design regular audit plans and rules for these kind of actions. The provision is enshrined in Law XLVI 2022 on Grant Inspections and Irregularities: **21**

8. The procedure for monitoring EU and international subsidies **22**
Section 12
(1) The Directorate-General conducts its audit activities related to EU and international grants in accordance with the Audit Manual prepared in accordance with the relevant

[244] Even private companies and special state bodies are competent die-by-side in this area see https://www.asz.hu/#. And see the Hungarian Directorate-General for Auditing European Grants https://eutaf.hu/. Thus, three different Auditing Offices need to be distinguished:
The State Audit Office
The Government Audit Office
Directorate-General for Auditing European Grants (Office).

EU and national legislation and international auditing standards and approved by the Director-General of the Directorate-General.
(2) The Directorate-General shall have functional independence in connection with its control activity, in particular with regard to:
a) development of control strategies and annual control plans,
b) preparation and implementation of control programs,
c) choice of control methods,
d) elaboration of findings, conclusions and proposals,
e) detection of irregularities detected during controls,
f) preparation of audit reports, annual audit reports and final audit reports,
g) submission of annual accounts and final accounts,
h) human-political decisions, as well as
i) Selection and development of IT applications.
(3) The Directorate General's authority to control extends to Sections 6 to 10 for controls in connection with budget subsidies from the sources specified in Section 1
a) at the organizations involved in implementation,
b) the beneficiaries (in the case of HET, the final beneficiary) and
c) for purchases in connection with budget subsidies, to check the fulfilment of the contracts concluded for them, insofar also for the contracting parties who are responsible for the fulfilment of the contract or are involved in it.
(4) Until the examination documents are stored, the General Directorate may process personal data for the purposes of their examination work, insofar as this is necessary for this.
(5) In the control of the General Directorate the head or employee of the controlled body, organization or other person, organization or other person, organization or other person, organization or employee who is in possession of the data, facts, or information necessary for necessary to carry out the inspection is obliged to provide data and cooperate in accordance with the legislation.

23 The clarification of facts in the area of General Administrative Procedure may lead to an administrative control and audit, which is then carried out by ss. 99 et seq. General Administrative Law 2016:

24

53. General Rules
Section 98 [Application of the Official Procedure Code]
The provisions of this law on official procedures apply to official controls, with the exceptions contained in this chapter.

Section 99 [Object of official control]
Within the scope of its powers, the authority checks compliance with the legal provisions and the fulfilment of the provisions of the enforceable decision.

54. Carrying out the official control
Section 100 [General Rules for Initiating Official Control]
(1) The official examination begins ex officio and is carried out by the authority according to the rules of the official procedure.
(2) The client can also request an official inspection, unless
a) at the time the application is submitted, an official inspection or a procedure based on it is in progress before the authority,
b) the authority also carries out ongoing control tasks for the client,
c) excluded by law, or
d) no violation of rights has been found in the inspection carried out by the authority at the request of the same customer within one year before the new application is made, unless the application is made for a reason or circumstance that arose after the inspection.
(3) In the case of an official inspection ordered upon application, the procedure can be discontinued if the client does not meet the obligation to pay the procedure costs in advance.

25

(c) Tax and customs investigation (Customs Code/General Tax Code)

The area of tax and customs investigation is governed by the Union Customs Code and the Hungarian Law to implement EU customs law, called **2017 CLII**. The customs authorities might discover irregularities and have the power to seize things according to s. 12 of this Customs Law.

(d) Fiscal supervision

The Fiscal supervision is carried out by the Hungarian Ministry of Finance. **26**

(2) Administrative provisions in the area of structural funds and internal policies = expenditure

The area of structural funds is governed by different administrative acts. In the area of subsidy related grants the Directorate-General for Auditing European Grants (Directorate-General, EUTAF) is competent to investigate. [245] **27**

Further administrative rules and the whole system of **prevention of misuse of EU funds** is nowadays regulated by an extensive Government Decree from 2022[246]. **28**

It relates to the Union Acts from 2021 and shall be applicable in case; the EU grants the money to Hungary (which is only the case if the conditionality assessment is positive). **29**

[245] See https://eutaf.kormany.hu/. And see the new Webpage: https://eutaf.hu/. Accessed 31 December 2024.
[246] See https://net.jogtar.hu/jogszabaly?docid=a2100256.kor. Accessed 31 December 2024.

30 This Government Decree includes e.g. a provision, which shall ensure that corruption does not happen. It regulates on the conflict of interests and prescribes the exclusion of certain persons:

Section 46[247] 256/2021. (V. 18.) Decree on the procedure for using subsidies from individual European Union funds in the 2021-2027 programming period
(1) You may not carry out a document-based inspection, on-site inspection or on-site inspection built into the process
a) the person under control,
b) the chief executive officer and other representative, member of the supervisory board, auditor of the person under control,
c) to the person under control, Pmt. its actual owner according to point 38 of § 3,
d) a person in a legal relationship to work with the person under control,
e) the person who qualified according to point b), c) or d) in the year prior to the start of the inspection or inspection,
f) a relative of the person referred to in points a)–e),
g) the person from whom an unbiased assessment of the case cannot be expected for other reasons.
(2) A person who has one of the reasons listed in paragraph (1) may not participate in the authorization of the payment, with the fact that for the purposes of this paragraph, the person subject to control must be understood as the person requesting the payment.

[247] 46. 256/2021. (V. 18.) Korm. Rendelet a 2021-2027 programozási időszakban az egyes európai uniós alapokból származó támogatások felhasználásának rendjéről
§ (1) Folyamatba épített dokumentumalapú ellenőrzést, helyszíni ellenőrzést vagy helyszíni szemlét nem végezheti
a) az ellenőrzés alá vont személy,
b) az ellenőrzés alá vont személy vezető tisztségviselője és más képviselője, felügyelő bizottságának tagja, könyvvizsgálója,
c) az ellenőrzés alá vont személynek a Pmt. 3. § 38. pontja szerinti tényleges tulajdonosa,
d) az ellenőrzés alá vont személlyel munkavégzésre irányuló jogviszonyban álló személy,
e) az a személy, aki az ellenőrzés alá vont személy tekintetében az ellenőrzés vagy a szemle megkezdését megelőző egy évben a b), a c) vagy a d) pont szerint minősült,
f) az a)-e) pont szerinti személy hozzátartozója,
g) az a személy, akitől az ügy elfogulatlan megítélése egyéb okból nem várható.
(2) A kifizetés engedélyezésében nem vehet részt az, aki tekintetében az (1) bekezdésben felsorolt valamely ok fennáll, azzal, hogy e bekezdés alkalmazásában az ellenőrzés alá vont személyen a kifizetést igénylő személyt kell érteni.
(2a) Ha egy személy összeférhetetlensége az (1) bekezdés a)-f) pontja vagy e rendelkezések tekintetében a (2) bekezdés alapján nem volna megállapítható, de az (EU, Euratom) 2018/1046 európai parlamenti és tanácsi rendelet 61. cikk (3) bekezdése szerinti valamely összeférhetetlenségi ok rá nézve teljesül vagy annak kockázata vagy látszata objektíven fennáll, akkor ezen személyt úgy kell tekinteni, mint akitől az ügy elfogulatlan megítélése egyéb okból nem várható. Ezen személy az (1) és a (2) bekezdés szerinti ügyekben nem járhat el.
(3) Az (1) bekezdés a), b) és d) pontja, valamint az (1) bekezdés a), b) és d) pontja vonatkozásában a (2) bekezdés nem zárja ki, hogy az irányító hatóság, illetve annak munkatársa
a) az irányító hatóság vagy olyan szervezet tekintetében, amelynek az irányító hatóság a szervezeti egysége, vagy
b) szakpolitikai felelős által vezetett szervezet tekintetében
folyamatba épített dokumentumalapú ellenőrzésben, helyszíni ellenőrzésben vagy helyszíni szemlében vegyen részt. Erre akkor kerülhet sor, ha a projekt előkészítéséhez és megvalósításához, valamint az ellenőrzéshez kapcsolódó feladatok szervezeti és személyi szinten elkülönülnek

(2a) See paragraph (3) of Article 10, a reason for conflict of interest is met for him or the risk or appearance of it objectively exists, then this person must be regarded as someone from whom an impartial assessment of the case cannot be expected for any other reason. This person may not act in matters according to paragraphs (1) and (2).
(3) With regard to points a), b) and d) of paragraph (1) and points a), b) and d) of paragraph (1), paragraph (2) does not exclude that the managing authority or its his colleague
a) with regard to the managing authority or an organization of which the managing authority is an organizational unit, or
b) with regard to an organization led by a political officer
participate in an ongoing document-based audit, on-site audit or on-site inspection. This can happen if the tasks related to the preparation and implementation of the project, as well as the control, are separated at the organizational and personal level.

An example of this Government Decree shows how is competent for certain programs and EU financing: **31**

It follows the Annex 1 to No 256/2021, which is the original annex to Government Decree, relating to the Designation of the managing authority and the contributing organisation: **32**

33 *Table 10: Annex 1 to No 256/2021*

A	**B**	**C**	**D**	
1.	Program	A ministry headed by a member of the Government appointed to carry out the management authority tasks related to the use of EU funds or appointed to support its activities	The member of the Government appointed to perform administrative tasks related to the use of European Union funds	Contributing organisation
2.	Digital Renewal Operative Program Plus	Prime Minister's Cabinet Office	Minister in charge of the Prime Minister's Cabinet Office	
3.	Human Resource Development Operational Program Plus	Prime Ministry	Minister of Regional Development	
4.	Hungarian Fisheries Operational Program Plus	Ministry of Agriculture	Minister of Agriculture	treasury
5.	Integrated Transport Development Operational Program Plus	Prime Ministry	Minister of Regional Development	

6.	Economic Development and Innovation Operative Program Plus	Prime Ministry	Minister of Regional Development	
7.	Implementation Operational Program Plus	Prime Ministry	Minister of Regional Development	
8.	Regional and Urban Development Operative Program Plus	Prime Ministry	Minister of Regional Development	treasury
9.	Environmental and Energy Efficiency Operative Program Plus	Prime Ministry	Minister of Regional Development	
10.	Asylum, Migration and Integration Fund Plus	Ministry of the Interior	Minister of the Interior	
11.	Border Management and Visa Policy Tool Plus	Ministry of the Interior	Minister of the Interior	
12.	Internal Security Fund Plus	Ministry of the Interior	Minister of the Interior	
				of the Council Regulation 2012/2002/EC

				of 11 November 2002 on the establishment of the European Union Solidarity Fund, in relation to Article 2 (1) point *a)* the Minister of the Interior, in relation to Article 2 (1) point *b)* the Minister of Regional Development

34 *Table 11: Annex 2 to 256/2021. (V. 18.) to Government Decree Designation of the political officer*

	A	**B**	**C**
1.	Program	Priority	Policy officer
2.	Digital Renewal Operative Program Plus	1. A more intelligent Hungary	Minister responsible for the unification of e-public administration and IT developments
3.		2. Hi-tech and green transition	Minister responsible for the unification of e-public administration and IT developments
4.		3. Hungary connected	Minister responsible for the unification of e-public administration and IT developments
5.		4. Digital Skills	Minister responsible for the unification of e-

			public administration and IT developments
6.	Human Resource Development Operational Program Plus	1. XXI. century public education	Minister responsible for public education
7.		2. Teacher career model	Minister responsible for public education
8.		3. Social catch-up developments	Minister responsible for social inclusion
9.		4. Social developments	Minister responsible for social policy
10.		5. Support of needy persons	Minister responsible for social policy
11.		6. Family and youth developments	Minister responsible for family policy
12.		7. Catch-up settlements ESZA+	Minister responsible for social inclusion
13.		8. Catch-up settlements ERDF	Minister responsible for social inclusion
14.	Hungarian Fisheries Operational Program Plus	1. Supporting sustainable fishing and promoting the restoration and protection of aquatic biological resources	Minister responsible for agricultural policy
15.		2. Promoting sustainable aquaculture activities and the processing and marketing of fishery and aquaculture products, thereby contributing to the Union's food security	Minister responsible for agricultural policy
16.		3. Technical Assistance Priority	Minister responsible for agricultural policy
17.	Integrated Transport	1. Strengthening clean urban-suburban transport	Minister responsible for transport

	Development Operational Program Plus		
18.		2. Development of TEN-T railway and regional intermodal transport	Minister responsible for transport
19.		3. More sustainable and safer road mobility	Minister responsible for transport
20.	Economic Development and Innovation Operative Program Plus	1. Business development	Minister responsible for enterprise development
21.		2. Research, development, innovation	Minister responsible for science policy coordination
22.		3. Sustainable labour market	Minister responsible for employment policy
23.		4. Youth guarantee	Minister responsible for employment policy
24.		5. Higher education, vocational training	Minister responsible for vocational training
25.	Implementation Operational Program Plus	1. Ensuring and developing the human capacity and conditions necessary for the effective, efficient and regular use of resources – ERDF	Minister responsible for the use of European Union funds
26.		2. Ensuring and developing the human capacity and conditions necessary for the effective, efficient and regular use of resources – ESZA+	Minister responsible for the use of European Union funds
27.		3. Ensuring and developing the human capacity and conditions necessary for effective, efficient and regular use of resources – KA	Minister responsible for the use of European Union funds

28.		4. Supporting the effective, efficient and regular use of resources of the institutional system	Minister responsible for the use of European Union funds
29.		5. Ensuring and developing the human capacity and tool system necessary for effective, efficient and regular use of the funds provided by the Just Transition Fund	Minister responsible for the use of European Union funds
30.	Regional and Urban Development Operative Program Plus	1. Liveable county	Minister responsible for territorial development
31.		2. Climate-friendly county	Minister responsible for territorial development
32.		3. Gnoskoskodó county	Minister responsible for territorial development
33.		4. Budapest infrastructural developments	Minister responsible for territorial development
34.		5. Budapest human development	Minister responsible for territorial development
35.		6. Competitive county	Minister responsible for territorial development
36.	Environmental and Energy Efficiency Operative Program Plus	1. Water management and disaster risk reduction	Minister responsible for water management
37.		2. Circular economic systems and sustainability	Minister responsible for the coordination of sustainable development tasks related to the circular economy and waste management
38.		3. Environmental and nature protection	Minister responsible for nature conservation

39.		4. Renewable energy economy	Minister responsible for energy policy
40.		5. Just Transition Fund	Minister responsible for energy policy
41.	Asylum, Migration and Integration Fund Plus	1. Development of the asylum system	Minister responsible for immigration and asylum affairs
42.		2. Support for legal migration and integration	Minister responsible for promoting the social integration of foreigners
43.		3. Effective and sustainable return	Minister responsible for immigration and asylum affairs
44.		4. Enhancing and developing solidarity	Minister responsible for immigration and asylum affairs
45.	Border Management and Visa Policy Tool Plus	1. Support for European integrated border management	Minister responsible for border police
46.		2. Support of the common visa policy	Minister responsible for border police
47.	Internal Security Fund Plus	1. Developments aimed at increasing the exchange of criminal data and information	Minister responsible for police
48.		2. Developments aimed at increasing operational cooperation	Minister responsible for police
49.		3. Developments aimed at enhancing law enforcement and crime prevention	

g) Investigative powers

Investigative powers are essential for (external) investigations.[248] The national authorities are vested with these powers, which OLAF does not have itself in a *Sigma Orionis* case but which it can use through the national authorities, which cooperate with the Units of the Office. **35**

aa. Investigative powers in the area of customs duties and VAT (General Tax Code)

The investigative powers in the are of custom duties fall into the scope of the actions of custom officials, which e.g. trace containers, control shipment papers and other documents or electronic systems: **36**

Customs Investigations Measures 1

	Measures
	The customs authorities might discover irregularities and have the power to seize things according to s. 12 of this Customs Law. See below for a detailed presentation of the full wording of the relevant provisions (see → Single measures). The enumeration is not exhaustive.

bb. Investigative powers in the area of structural funds and internal policies

The next example includes a case study and relates to the inspection of an irreguariy in the this particulr area: **37**

Case Study 2: Fictious Example **38**

	Case-Study: Example
	A fictious example could be that an Inspector discovers during a normal control that an irregularity in the area of a grant on Hungarian territory exists. He/She decides to take further controls to see if the irregulartiy proves as a "real" irregularity or a simple administrative mistake and needs to be or not to be sanctioned or controlled further. The applicable law, which the Inspector can use to defend his/her action is Art. 13 of the new Law 2022:

[248] See Turksen et al. 2023, p. 243 rightly confirming "powers that are conferred to relevant authorities vary significantly according to the national legal framework" – that is true, we can only emphasize this information by saying see the other volumes of this compendium to compare the investigative powers of OLAF, if OLAF has to rely on national authorities, which depends on the special conduct of the economic operator. Bovend'Eerdt 2024, p. 106 limiting OLAF's role a bit short-biaised according to his research topic to interviews, which is true for interviews based on Union law, but OLAF relies on national authorities according to Art. 3 and 7 para 2 Regulation 2185/96. He states on p. 116 that: "To conduct an on-the-spot check OLAF investigators must, as is the case for interviews be authorised by OLAF's Director-General. This is an EU decision which indicates the subject matter and the purpose of the check. The authorisation dictates the legal bases for conducting the check and the investigative powers (i.e. an entry of premises, the taking of statements, and the access to information) stemming from those bases."

Article 13 [Rights of the Inspector during a n Inspection into Spending of EU Grants and Irregularities] (1) The inspector of the General Directorate (hereinafter: Inspector) conducts inspections on the basis of the letter of mandate issued by the General Directorate.
(2) The examiner has the following rights:
(a) to enter the premises of the inspected organization, taking into account the security rules and work plan of the inspected organization;
b) data classified at the audited organization related to the subject of the audit, documents with tax and business or other secrets and other documents (including personnel materials), archival and live data stored on electronic data carriers in accordance with the view data and confidentiality regulations laid down in the law, to have a copy, an extract or a certificate made of it,
c) request information, in writing or orally, from the head of the audited organization and its responsible employee on the subject matter covered by the audit,
d) to request information from other entities on issues related to the operation and management of the audited organization,
e) arrange for an expert to be involved in the investigation at the Director-General.
(3) The following can be used to prove the findings of the test:
a) the original document, which is the primary document (evidence) of the economic event,
b) the copy, which is a true, certified copy of the original document,
c) the extract, which is a true, certified copy of the specified part or parts of the original document,
d) the certificate containing the text and numerical data of several original documents determined by the inspector,
e) the joint protocol, which serves to verify a fact for which there is no other document, but the authenticity of which is jointly established by the auditor and the responsible manager (employee) of the audited organization and this fact is verified by their signature,
f) photographic, video recording or other image, sound and data recording devices that can be used to authenticate the situation and condition observed by the inspector,
g) the report, which is an assessment given by a requested expert on questions of expertise that require special knowledge,
h) statement of the employee of the audited organization,
i) the multiple statement, which is a statement made by several persons separately or jointly on the same facts.
(4) The copy, the extract and the certificate shall be certified by the head of the audited organization or a person authorized by him. The authenticator confirms the authenticity of the content of the document with his signature and also states the date of authentication.

(5) When certifying an excerpt in accordance with paragraph (3) letter c), in addition to the word "extract", it must also be stated which text part of which page of the original document the excerpt contains.
(6) When certifying a certificate in accordance with paragraph (3) letter d), in addition to the word "certificate", the basis on which it was issued must also be stated.
(7) The photograph referred to in paragraph (3) letter f) and information recorded in any other way shall be certified in a log by the employee of the audited organization present at the time of recording, stating the time, place and subject of the recording.

cc. Investigative powers in the area of direct expenditure

In the area of direct expenditure the direct management ie the control and managing by one main authority (mainly the Commission itself) is the main source of money transfer. If it is mainly the European Commission, its agencies and delegations that manage the EU budget in this are, they are competent to supervision the accounting of projects in this area. The EU Commission runs eg the Funding and Tenders Portal (SEDIA) for this special area. The whole direct expenditure area is not immune to fraud. It can be said that it is prone to procurement, or procurement related fraud (causing damage to the expenditure side of the budget).[249] **39**

OLAF describes and displays investigations in this area as follows: **40**

"Direct expenditure **41**
Accounting for 14% of the EU budget, this is expenditure allocated and directly managed by EU institutions, bodies, agencies alone (not jointly with national authorities, as with the structural funds). Beneficiaries are generally located in EU countries.
It includes expenditure in, among others, the following areas :

- research and innovation (e.g. Horizon Europe programme)
- education, training and mobility of young people (e.g. ERASMUS+ programme)
- supporting the competitiveness of industry and in particular of micro, small and medium-sized enterprises (e.g. Single Market programme)

[249] See OECD 2019, pp. 7, 14: "The implementation stage of the project cycle brings with it numerous fraud and corruption risks due to the number of actors potentially involved in project implementation and the complexity of some of the processes at this stage. For projects with high investment value, such as large-scale infrastructure projects, this stage becomes even more vulnerable to fraud and corruption. Furthermore, tenders put out either directly by the MA or beneficiary are common during the implementation stage, and procurement processes are notoriously prone to fraud and corruption. As shown in the illustrated schemes in the final part of the guide, there are a number of procurementspecific risks that occur at this stage. For example, members of an MA or beneficiary may tailor tender specifications or leak commercially sensitive tender information to favour one particular company or individual. Companies or contractors may also take part in collusive bidding schemes to manipulate competitive procedures. Responses from an OECD survey that was distributed to programme authorities show that procurement-related fraud and corruption risks at the level of beneficiaries are sometimes overlooked in risk analysis activities. In addition, some MAs generally base the identification of fraud risks on their own experience, without any additional input from other knowledgeable actors. Outside of the procurement process, perpetrators employ other tactics to siphon off funds and defraud the EU budget. For example, a beneficiary may fabricate fictitious works, services or activities, or inflate labour costs. In attempt to cover up fraudulent or corrupt behaviour or to justify non-eligible expenditure, perpetrators may manipulate documents and submit fictitious invoices. In some cases, perpetrators may even attempt to bribe officials or staff within programme authorities to conceal the scheme."

- environment and climate action (LIFE programme)
- improving the capacity of the EU to face security threats (Internal Security Fund)
- European public administration.

As a rule, national authorities are not involved in investigating fraud affecting direct expenditure."[250]

42 In the area of direct expenditure beneficiaries subject themselves often under the regime of civil and administrative anit-fraud clauses, which are usually enshrined in the contract between between the recipient and the monitoring payment office.

43 *Examples*: The EU Commission supports large infrastructure projects.

44 OLAF has a special unit, which is competent to investigate and detect irregularities in the area of direct expenditure: *Direct Expenditure – Operations and Investigations (OLAF.A.2)* Rue Joseph II 30/Josef II-straat 30, 1000, (postal office Box: 1049), Brussels/Brussel Belgium[251]

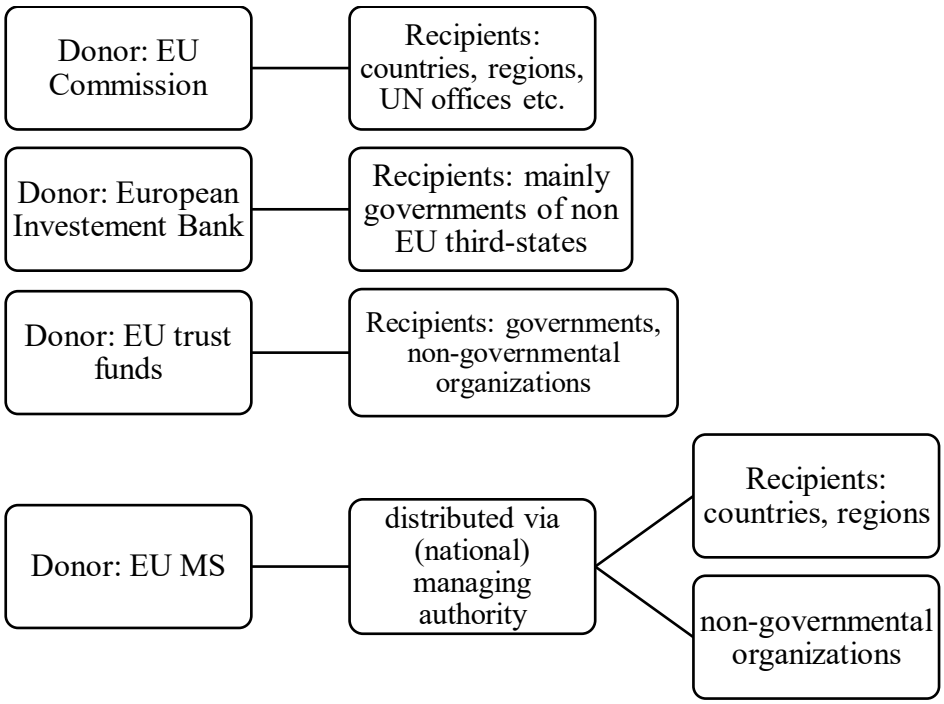
dd. Provisions in the area of external aid = expenditure

45 In the area of indirect management the budget is implemented by various actors that have to carry out delegated tasks, which the Commission carries out itself in the area of direct management.[252]

46 The EU Aid explorer can be used to discover beneficiaries and funding schemes.[253]
A common fraud scheme in this area is the "manipulation of tender processes".[254]

[250] OLAF, Information on Investigations related to EU expenditure, https://ec.europa.eu/anti-fraud/investigations/investigations-related-eu-expenditure_hr. Accessed 31 December 2024.
[251] EU, WHOisWHO, https://op.europa.eu/en/web/who-is-who/organization/-/organization/OLAF/COM_CRF_230282. Accessed 31 December 2024.
[252] European Commission, Funding by management mode, online: https://ec.europa.eu/info/funding-tenders/find-funding/funding-management-mode_en. Accessed 31 December 2024.
[253] EU external aid explorer, https://euaidexplorer.ec.europa.eu/index_en. Accessed 31 December 2024.
[254] OLAF, Sucess Stories, May 2022, https://ec.europa.eu/anti-fraud/investigations/success-stories_en#external-aid. Accessed 31 December 2024.

Figure 9: EU external aid/expenditure (indirect management): Art. 3 OLAF Regulation on-the-spot inspections to discover EU external aid expenditure-related frauds



Source: European Commission.

For the investigations in the area of external aid OLAF can make use of Administrative Cooperation Agreements (ACAs).[255] **47**

h) Protection of information

The protection of information in tax inspections, customs actions, special interviews carried out on the foreign premises of an economic operator or another special person. **48**

aa. Tax secrecy

The tax secret has a quite long story and its regulation changed over time.[256] Until 1989 it was regulated in the Act on State Finances.[257] The current provision is enshrined in Hungary's Fundamental Law: **49**

Article 6[258] (1) Everyone has the right to have their private and family life, home, relationships and reputation respected. The freedom of expression and the exercise of the **50**

[255] OLAF, State of Play – June 2021 Administrative Cooperation Arrangements (ACAs) with partner authorities in non-EU countries and territories and counterpart administrative investigative services of International Organisations, https://ec.europa.eu/anti-fraud/system/files/2021-07/list_signed_acas_en_7fd50a9cbe.pdf. Accessed 31 December 2024.
[256] See Ádám Sándor Nagy, Az adótitok mint adóhatósági kötelezettség, Adó Online 2019.
[257] See Ádám Sándor Nagy, Az adótitok mint adóhatósági kötelezettség, Adó Online 2019.
[258] VI. cikk
(1) Mindenkinek joga van ahhoz, hogy magán- és családi életét, otthonát, kapcsolattartását és jó hírnevét tiszteletben tartsák. A véleménynyilvánítás szabadsága és a gyülekezési jog gyakorlása nem járhat mások magán- és családi életének, valamint otthonának sérelmével.
(2) Az állam jogi védelemben részesíti az otthon nyugalmát.

right to assembly must not involve harming the private and family life and home of others.
(2) The state provides legal protection for the tranquillity of the home.
(3) Everyone has the right to the protection of their personal data, as well as the right to access and disseminate data of public interest.
(4) The enforcement of the right to the protection of personal data and the right to access data of public interest is controlled by an independent authority established by a landmark law.

bb. Customs Secrecy

51 During the customs procedure, the inspection or audit the customs secret applies:

VII. Chapter
Section 27[259] **[Customs secrecy]**
(1) In the course of carrying out duties related to the application of customs legislation, customs secret has come to the attention of the customs authorities, regardless of the form of its appearance.
(2) The customs authority, as well as its employees, former employees, and all other persons involved in the inspection or the procedure, are obliged to preserve all legally protected secrets that come to their knowledge during the performance of their duties.

cc. Administrative secrecy (Administrative laws)

52 In the area of the general administrative procedure data management aims at the protection of confidential information:

53 **Section 27 [Rules of data management]**[260] (1) The authority manages the natural personal identification data necessary for the identification of the client and other

(3) Mindenkinek joga van személyes adatai védelméhez, valamint a közérdekű adatok megismeréséhez és terjesztéséhez.
(4) A személyes adatok védelméhez és a közérdekű adatok megismeréséhez való jog érvényesülését sarkalatos törvénnyel létrehozott, független hatóság ellenőrzi.
[259] VII. FejezetINFORMÁCIÓNYÚJTÁS
9.A Vámkódex 12. cikkéhez
27. § [Vámtitok]
(1) Vámtitok a vámjogszabályok alkalmazásával összefüggő feladatai elvégzése során a vámhatóság tudomására jutott minden információ, függetlenül annak megjelenési formájától.
(2) A vámhatóság, valamint alkalmazottja, volt alkalmazottja, az ellenőrzésbe vagy az eljárásba bevont minden más személy a feladatai ellátása során tudomására jutott minden, jogszabály által védett titkot köteles megőrizni.
[260] 13.Adatkezelés
27. §[Az adatkezelés szabályai]
(1) A hatóság az ügyfél és az eljárás egyéb résztvevője azonosításához szükséges természetes személyazonosító adatokat és az ügyfajtát szabályozó törvényben meghatározott személyes adatokat, továbbá – ha törvény másként nem rendelkezik – az eljárás eredményes lefolytatásához elengedhetetlenül szükséges más személyes adatokat kezeli.
(2) A hatóság gondoskodik arról, hogy a törvény által védett titok és törvény által védett egyéb adat (a továbbiakban együtt: védett adat) ne kerüljön nyilvánosságra, ne juthasson illetéktelen személy tudomására, és e védett adatok törvényben meghatározott védelme a hatóság eljárásában is biztosított legyen.

participants in the procedure and the personal data specified in the law governing the type of case, and – unless the law provides otherwise – other personal data essential for the effective conduct of the procedure.
(2) The authority shall ensure that secrets protected by law and other data protected by law (hereafter together: protected data) are not made public or come to the knowledge of an unauthorized person, and that the protection of this protected data as defined by law also applies to the authority's proceedings be insured.
(3) In the course of its procedure, in order to carry out the procedure, the authority shall – in the manner and scope defined by law – handle the protected data that are related to its procedure, and the handling of which is necessary for the successful conduct of the procedure.

dd. Data secrecy

During the customs procedure and the administrative follow-up the authorities and the parties can rely on the secrecy of measures and actions, which is established by s. 27 of the Law C L II 2017, the Customs Law:

Section 27 Customs secrecy[261] **54**
(1) When performing tasks related to the application of customs legislation, customs authorities have become aware of customs secrecy, regardless of the form of its appearance.
(2) The customs authority as well as its employees, former employees and all other persons involved in the control or the procedure are obliged to keep all secrets protected by law, which become known to them in the performance of their duties.

ee. Official secrecy

The Official Secrecy in Customs matters found in s. 27 of the Law C L II 2017 (see above Data secrecy). **55**

ff. Confidentiality in the Area of Grants and Subsidies

The new Government Decree from 2022 states in this regard: **56**

20/A[262] **Confidentiality 52/B §** (1) The evaluator, the state evaluator and the person involved in the preparation of the support decision are bound by an obligation of

(3) A hatóság az eljárása során annak lefolytatásához – jogszabályban meghatározott módon és körben – kezeli azokat a védett adatokat, amelyek eljárásával összefüggnek, illetve amelyek kezelése az eljárás eredményes lefolytatása érdekében szükséges.

[261] 27. § [Vámtitok]
(1) Vámtitok a vámjogszabályok alkalmazásával összefüggő feladatai elvégzése során a vámhatóság tudomására jutott minden információ, függetlenül annak megjelenési formájától.
(2) A vámhatóság, valamint alkalmazottja, volt alkalmazottja, az ellenőrzésbe vagy az eljárásba bevont minden más személy a feladatai ellátása során tudomására jutott minden, jogszabály által védett titkot köteles megőrizni.

[262] 20/A. Titoktartás

confidentiality with regard to the information learned in the course of their activities. The confidentiality obligation does not extend to information on the progress of the grant application in the project selection procedure.
(2) The evaluator, the state evaluator and the person involved in the preparation of the support decision shall make a declaration of confidentiality before starting their activities.

i) Investigation reports (Customs Code, General Tax Code…)

57 The Inspection Report is required in the area of EU Spending as well. Law XLIV. 2022 on EU Grant Spending and Inspection of Irregularities requests the Inspector to draw the Report:

58

Article 16[263]
(1) An audit report shall be drawn up on the audit, including findings, conclusions and recommendations, if any, a draft of which shall be submitted by the General Directorate to the head of the audited organization and to the person for whom the draft report contains findings or recommendations (for which Purposes of this section below together: affected). In the case of an audit involving several audited organisations, the Directorate-General transmits only the relevant part of the draft to each organisation.
(2) The draft report must contain the clause obliging the parties involved to submit their comments to the General Directorate within fifteen days – twenty-two days in the case of a system audit – after receipt of the draft report. The Directorate-General is not obliged to take into account comments received after the deadline, which must be brought to the attention of the data subject in the clause. In the case of a draft report sent in electronic form, the date of receipt is the date of the delivery confirmation.

52/B. § (1) Az értékelőt, az állami értékelőt és a támogatási döntés előkészítésében részt vevőt az e tevékenysége során megismert információk vonatkozásában titoktartási kötelezettség terheli. A titoktartási kötelezettség nem terjed ki a támogatási kérelem projektkiválasztási eljárásban történő előrehaladásáról történő tájékoztatásra.
(2) Az értékelő, az állami értékelő és a támogatási döntés előkészítésében részt vevő e tevékenysége megkezdését megelőzően titoktartási nyilatkozatot tesz.

[263] 16. § (1) Az ellenőrzésekről – szükség esetén megállapításokat, következtetéseket és javaslatokat is tartalmazó – ellenőrzési jelentés készül, amelynek tervezetét a Főigazgatóság megküldi az ellenőrzött szervezet vezetőjének, továbbá annak, akire vonatkozóan a jelentéstervezet megállapítást vagy javaslatot tartalmaz (e § alkalmazásában a továbbiakban együtt: érintett). Több ellenőrzött szervezetet érintő ellenőrzés esetén a Főigazgatóság a tervezetnek csak a vonatkozó részét küldi meg az egyes szervezeteknek.
(2) A jelentéstervezetnek tartalmaznia kell a záradékot, amely szerint az érintettek kötelesek észrevételeiket a jelentéstervezet kézhezvételétől számított tizenöt – rendszerellenőrzés esetén huszonkét – napon belül megküldeni a Főigazgatóság részére. A határidőt követően beérkezett észrevételeket a Főigazgatóság nem köteles figyelembe venni, amire a záradékban fel kell hívni az érintett figyelmét. Elektronikus formában megküldött jelentéstervezet esetében a kézhezvétel dátuma a kézbesítési visszaigazolás időpontja.
(3) Ha az érintett a rá vonatkozó megállapítást, következtetést vagy javaslatot vitatja, megbeszélés tartható, rendszerellenőrzés esetén megbeszélést kell tartani.
(4) Az észrevétel elfogadásáról vagy elutasításáról a vizsgálatvezető dönt, amelyről megbeszélés esetén a megbeszéléstől, megbeszélés hiányában az észrevételek beérkezésétől számított nyolc napon belül az érintetteknek tájékoztatást ad, és az el nem fogadott észrevételeket indokolja.
(5) Az elfogadott észrevételeknek megfelelően a vizsgálatvezető a jelentést módosítja.
(6) Az ellenőrzési jelentés az (1)–(5) bekezdésben meghatározott eljárást követően lezárásra kerül, a jelentést a Főigazgatóság főigazgatója megküldi az érintetteknek.

(3) If the person concerned contests the finding, conclusion or suggestion concerning him/her, a meeting can be held; a meeting must be held in the case of a system audit.
(4) The investigator shall decide whether to accept or reject the opinion, informing the parties concerned within eight days of the discussion in the case of a discussion or, if no discussion takes place, of the receipt of the comments and giving the reasons for the comments that were not accepted at.
(5) The examiner amends the report according to the accepted comments.
(6) The inspection report shall be finalized according to the procedure described in paragraphs (1)-(5) and sent to the concerned parties by the Director-General of the Directorate-General.

The rules on an on-site-inspection in the area of funds is determined by the new government decree from 2022:

117. Closing of the on-site inspection
Section 460[264]
(1) At the end of the on-site inspection, the on-site inspector prepares a protocol, in which he records the inspections carried out and their results, the position of the beneficiary, and the necessary measures in the event of suspected irregularities and deficiencies being discovered.
(2) The on-site inspectors and the person authorized to represent the inspected shall sign the minutes. If the technical conditions are available, the on-site inspectors and the person authorized to represent the inspected can also authenticate the report electronically.

Section 461[265]
(1) If the protocol prepared on the spot does not contain all findings, the fact of this and the deadline for sending the supplement must be recorded in the protocol.
(2) The supplement to the protocol must be signed in accordance with § 460.
(3) The signing of the additional protocol may be omitted if it is sent to the beneficiary as a delivery with return receipt.

[264] 117. A helyszíni ellenőrzés lezárása
460. § (1) A helyszíni ellenőr a helyszíni ellenőrzés végén jegyzőkönyvet készít, amelyben rögzíti az elvégzett ellenőrzéseket és azok eredményét, a kedvezményezett álláspontját, valamint szabálytalansági gyanú és hiányosság feltárása esetén a szükséges intézkedéseket.
(2) A helyszíni ellenőrök és az ellenőrzött képviseletére feljogosított személy a jegyzőkönyvet aláírják. A technikai feltételek rendelkezésre állása esetén a helyszíni ellenőrök és az ellenőrzött képviseletére feljogosított személy a jegyzőkönyvet elektronikus úton is hitelesíthetik.
[265] 461. § (1) Ha a helyszínen elkészített jegyzőkönyv nem tartalmaz minden megállapítást, ennek tényét és a kiegészítés megküldésének határidejét rögzíteni kell a jegyzőkönyvben.
(2) A jegyzőkönyv kiegészítését a 460. § szerint alá kell írni.
(3) A kiegészítő jegyzőkönyv aláírása mellőzhető, ha a kedvezményezett részére tértivevényes küldeményként történik annak megküldése.
(4) A kedvezményezett a kiegészítés kézhezvételét követő nyolc napon belül észrevételt tehet. Ha e határidőn belül a kedvezményezett nem tesz észrevételt, úgy kell tekinteni, hogy a kiegészítést elfogadta.

(4) The beneficiary may make comments within eight days after receiving the supplement. If the beneficiary does not make a comment within this deadline, it shall be considered that he has accepted the addition.

Section 462[266]
(1) In the case according to § 444, the managing authority sends the protocol to the beneficiary within five days after the conclusion of the on-site inspection.
(2) The beneficiary may make comments within eight days of receiving the protocol. If the beneficiary does not make a comment within this deadline, it shall be considered that the protocol has been accepted.

Section 463[267]
If justified on the basis of the on-site inspection, the managing authority shall take the necessary measures within five days of the conclusion of the on-site inspection.

Section 464[268]
(1) The managing authority shall notify the beneficiary of the acceptance or rejection of the implementation of the measure within five days after the receipt of the documents supporting the implementation of the measure recorded in the protocol.
(2) The managing authority may order the filling of deficiencies prior to its decision pursuant to subsection (1).
(3) The managing authority may extend the deadline according to paragraph (1) by five days in justified cases.
(4) In justified cases, the beneficiary may request in writing an extension of the deadline for the performance of the measure recorded in the protocol.
(5) If the beneficiary does not fulfil the measure within the extended deadline, the managing authority may reject the related payment request, suspend the payment of the subsidy, initiate an irregularity procedure, and apply other sanctions stipulated in the subsidy contract.
(6) The managing authority shall inform the beneficiary of the decision.

[266] 462. § (1) A 444. § szerinti esetben az irányító hatóság a jegyzőkönyvet a helyszíni ellenőrzés lezárását követő öt napon belül megküldi a kedvezményezett részére.
(2) A kedvezményezett a jegyzőkönyv kézhezvételét követő nyolc napon belül észrevételt tehet. Ha e határidőn belül a kedvezményezett nem tesz észrevételt, úgy kell tekinteni, hogy a jegyzőkönyvet elfogadta.
[267] 463. § Ha a helyszíni ellenőrzés alapján indokolt, az irányító hatóság megteszi a szükséges intézkedéseket a helyszíni ellenőrzés lezárásától számított öt napon belül.
[268] 464. § (1) Az irányító hatóság a jegyzőkönyvben rögzített intézkedés teljesítését alátámasztó dokumentumok beérkezését követő öt napon belül értesíti a kedvezményezettet az intézkedés teljesítésének elfogadásáról vagy elutasításáról.
(2) Az irányító hatóság az (1) bekezdése szerinti döntése előtt hiánypótlást rendelhet el.
(3) Az irányító hatóság az (1) bekezdés szerinti határidőt indokolt esetben öt nappal meghosszabbíthatja.
(4) A kedvezményezett indokolt esetben írásban kérheti a jegyzőkönyvben rögzített intézkedés teljesítési határidejének meghosszabbítását.
(5) Ha a kedvezményezett a meghosszabbított határidőben sem teljesíti az intézkedést, az irányító hatóság a kapcsolódó kifizetési kérelmet elutasíthatja, a támogatás kifizetését felfüggesztheti, szabálytalansági eljárást indíthat, valamint a támogatási szerződésben rögzített más szankciót alkalmazhat.
(6) Az irányító hatóság a döntésről tájékoztatja a kedvezményezettet.

aa. Support to the inspectors

An example for the support to the inspectors during an inspection is available in the general Law on Administrative Procedures from 2016. The Wording of s. 69 para 1 fits to this typical requisite. Without the support the inspectors would not have the possibility to enter easily a house or a premise. **59**

Section 69 [Conducting the inspection] **60**
(1) During the inspection – at the same time as notifying the known owner – *the owner of the object to be inspected can be obliged to present* the object to be inspected, or to allow the customer to enter the inspection location.

In the area of structural funds the new government decree asks the inspectors to cooperate in case of an audit: **61**

62 **XVII. Chapter The Control**

121 General rules for control

Section 476[269]

The beneficiary's entitlement to support, the activities of the managing authority and the beneficiary, and the use of the support can be checked by the organization specified in the legislation, the call and the support contract.

Section 477[270]

(1) The audit may be conducted from the beginning of the accountability according to the notice until the obligations arising from the support contract are fulfilled.

(2) If the controlling authority is the audited organization, the audit may take place from the acceptance of the program or – if the earlier – from the publication of the invitation.

Section 478[271]

(1) The audited organization is entitled

a) to get to know the inspector's identity document and his mandate,

b) to refuse cooperation if the inspector does not provide access to the documents according to point a),

c) learn about the findings of the inspection.

(2) The audited organization is obliged

a) to facilitate and cooperate with the implementation of the inspection,

b) provide the inspector with the requested information, clarification, and statement orally or in writing, provide access to the documentation, and, upon request, hand over the original documents – after making copies and minutes – as well as the data stored on the electronic data carrier to the inspector within the deadline,

c) to ensure suitable working conditions for the inspector.

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[269] AZ ELLENŐRZÉS

121. Az ellenőrzésre vonatkozó általános szabályok

476. § A kedvezményezett támogatásra való jogosultságát, az irányító hatóság és a kedvezményezett tevékenységét, valamint a támogatás felhasználását a jogszabályokban, a felhívásban és a támogatási szerződésben meghatározott szervezet ellenőrizheti.

[270] 477. § (1) Az ellenőrzés lefolytatására az elszámolhatóság felhívás szerinti kezdetétől a támogatási szerződésből eredő kötelezettségek fennállásig kerülhet sor.

(2) Ha az irányító hatóság az ellenőrzött szervezet, az ellenőrzésre a program elfogadásától vagy – ha az korábbi – a felhívás megjelenésétől kerülhet sor.

[271] 478. § (1) Az ellenőrzött szervezet jogosult

a) az ellenőr személyazonosságát igazoló okiratot és a megbízólevelét megismerni,

b) az együttműködést megtagadni, ha az ellenőr nem biztosítja az a) pont szerinti dokumentumok megismerését,

c) az ellenőrzés megállapításait megismerni.

(2) Az ellenőrzött szervezet köteles

a) az ellenőrzés végrehajtását elősegíteni, együttműködni,

b) az ellenőr részére szóban vagy írásban a kért tájékoztatást, felvilágosítást, nyilatkozatot megadni, a dokumentációkba a betekintést biztosítani, kérés esetén az eredeti dokumentumokat – másolat és jegyzőkönyv készítését követően -, továbbá az elektronikus adathordozón tárolt adatokat az ellenőrnek határidőben átadni,

c) az ellenőr számára megfelelő munkakörülményeket biztosítani.

Section 479[272]

(1) The inspection organization and the inspector are entitled

a) to enter the premises of the inspected organization, taking into account the safety regulations and work schedule of the inspected organization,

b) inspect the audited organization's documents, registers and data stored on electronic data carriers related to the subject of the audit, in compliance with the data protection and classified data protection regulations defined in separate legislation, and have a copy and extract made of them,

c) take a photo, video or audio recording during an on-site inspection,

d) to request written or verbal information from the audited organization,

e) initiate the involvement of an expert.

(2) The inspection organization and the inspector are obliged

a) to inform the audited organization about the start of its activity, to present its mandate letter,

b) examine the documents and circumstances necessary to form an objective opinion,

c) write down your findings, conclusions and proposals objectively, in accordance with reality, and support them with appropriate evidence,

d) immediately report the occurrence of a conflict of interest to the person responsible for the control, failure to do so is subject to disciplinary liability,

e) az ellenőrzött szervezetnél a biztonsági szabályokat és a munkarendet figyelembe venni,

f) to preserve classified data, business and economic secrets that have come to his knowledge,

g) properly document the inspection activity, attach the documents and copies of documents created during the inspection to the inspection documentation, in compliance with the regulations on data protection and the protection of classified data,

[272] 479. § (1) Az ellenőrző szervezet és az ellenőr jogosult

a) az ellenőrzött szervezet helyiségeibe belépni, figyelemmel az ellenőrzött szervezet biztonsági előírásaira, munkarendjére,

b) az ellenőrzött szervezetnél az ellenőrzés tárgyához kapcsolódó iratokba, nyilvántartásokba, valamint elektronikus adathordozón tárolt adatokba betekinteni a külön jogszabályokban meghatározott adatvédelmi és a minősített adatok védelmére vonatkozó előírások betartásával, azokról másolatot, kivonatot készíttetni,

c) helyszíni ellenőrzés során fényképet, videó- vagy hangfelvételt készíteni,

d) az ellenőrzött szervezettől írásban vagy szóban információt kérni,

e) szakértő bevonását kezdeményezni.

(2) Az ellenőrző szervezet és az ellenőr köteles

a) tevékenysége megkezdéséről az ellenőrzött szervezetet tájékoztatni, megbízólevelét bemutatni,

b) az objektív vélemény kialakításához szükséges dokumentumokat és körülményeket megvizsgálni,

c) megállapításait, következtetéseit és javaslatait tárgyszerűen, a valóságnak megfelelően írásba foglalni, azokat megfelelő bizonyítékkal alátámasztani,

d) összeférhetetlenségi ok felmerülését haladéktalanul jelezni az ellenőrzésért felelős személynek, amelynek elmulasztásáért fegyelmi felelősséggel tartozik,

e) az ellenőrzött szervezetnél a biztonsági szabályokat és a munkarendet figyelembe venni,

f) a tudomására jutott minősített adatot, üzleti és gazdasági titkot megőrizni,

g) az ellenőrzési tevékenységet megfelelően dokumentálni, az ellenőrzés során készített iratokat és iratmásolatokat – az adatvédelmi és a minősített adatok védelmére vonatkozó előírások betartásával – az ellenőrzés dokumentációjához csatolni,

h) az eredeti dokumentumokat az ellenőrzés lezárásakor az ellenőrzött szervezet részére visszaadni.

h) to return the original documents to the audited organization at the end of the audit.

bb. Preservation of Evidence (Customs Code, General Tax Code)

63 The General Administrative Procedure Act from 2016 holds that evidence is necessary for the clarification of the facts:

30. Clarification of the facts
Section 62 [Clarification of the facts][273]
(1) If the available data are not sufficient for decision-making, the authority will conduct an evidentiary procedure.
(2) Any evidence suitable for clarifying the facts may be used in the official procedure. Evidence obtained by the authority in violation of the law cannot be used as evidence.
(3) Facts that are officially known by the authority and that are common knowledge do not need to be proven.
(4) The authority freely chooses the method of proof and evaluates the available evidence according to its free conviction.
(5) A law or government decree may make the use of a document or other document as a means of proof mandatory in specific cases based on compelling reasons based on public interest.

31. Declaration of the client
Section 63 [Declaration by the client][274]
If clarification of the facts makes it necessary, the authority may invite the customer to make a statement.

[273] 62. §[A tényállás tisztázása]
(1) Ha a döntéshozatalhoz nem elegendőek a rendelkezésre álló adatok, a hatóság bizonyítási eljárást folytat le.
(2) A hatósági eljárásban minden olyan bizonyíték felhasználható, amely a tényállás tisztázására alkalmas. Nem használható fel bizonyítékként a hatóság által, jogszabálysértéssel megszerzett bizonyíték.
(3) A hatóság által hivatalosan ismert és a köztudomású tényeket nem kell bizonyítani.
(4) A hatóság szabadon választja meg a bizonyítás módját, és a rendelkezésre álló bizonyítékokat szabad meggyőződése szerint értékeli.
(5) Törvény vagy kormányrendelet közérdeken alapuló kényszerítő indok alapján, meghatározott ügyekben kötelezővé teheti valamely okirat vagy más irat bizonyítási eszközként történő alkalmazását.
[274] 63. §[Az ügyfél nyilatkozata]
Ha a tényállás tisztázása azt szükségessé teszi, a hatóság az ügyfelet nyilatkozattételre hívhatja fel.

Section 64 [Priority role of the client's statement][275]
(1) If it is not excluded by law, the customer can make up the missing evidence with his statement, if it is not possible to obtain it.
(2) If, despite knowing otherwise, the client or his representative untruthfully states or withholds important information from the point of view of the case – this does not include if there is a reason specified in § 66, subsection (2) or subsection (3), points b) and c) above – or if, in the context of mandatory data provision, in the absence of a reason set out in § 105, paragraph (2), he does not fulfil his obligation to provide data, he may be subject to a procedural fine.
(3) In the case referred to in paragraph (1), the authority shall warn the client of his rights and obligations and of the legal consequences of providing false, falsified or untrue evidence.

j) Single measures

A closer look at single Hungarian measures shall portray the rules on inspections, searches and seizure of digital forensice (see European Commission 2016) evidence again: **64**

aa. Interviewing/Questioning of "persons concerned" (in relation to suspects/defendants/witnesses)

In the normal administrative process it is a common measure to interview or question the person concerned (especially in the status as suspect or defendant) of an administrative irregularity. These interviews cannot be used to discover criminal conduct because the suspect would have to be told that a criminal offence is suspected and other authorities would be competent to deal with the matter. **65**

Witnesses can be heard according to the General Administrative Procedure Act (Law CL. 2016): **66**

33. Witness **67**
Section 66[276] **[General rules regarding witnesses]** (1) The person subpoenaed as a witness – with the exception specified in this law – is obliged to testify.

[275] 64. §[Az ügyfél nyilatkozatának kiemelt szerepe]
(1) Ha jogszabály nem zárja ki, az ügyfél a nyilatkozatával pótolhatja a hiányzó bizonyítékot, ha annak beszerzése nem lehetséges.
(2) Ha az ügyfél vagy képviselője más tudomása ellenére az ügy szempontjából jelentős adatot valótlanul állít vagy elhallgat – ide nem értve, ha vele szemben a 66. § (2) bekezdésében vagy (3) bekezdés b) és c) pontjában meghatározott ok áll fenn –, illetve ha a kötelező adatszolgáltatás körében a 105. § (2) bekezdésében foglalt ok hiányában adatszolgáltatási kötelezettségét nem teljesíti, eljárási bírsággal sújtható.
(3) A hatóság az (1) bekezdés szerinti esetben figyelmezteti az ügyfelet jogaira, kötelességeire és a hamis, hamisított vagy valótlan tartalmú bizonyíték szolgáltatásának jogkövetkezményeire.

[276] 33.Tanú
66. §[A tanúra vonatkozó általános szabályok]
(1) A tanúként idézett személy – az e törvényben meghatározott kivétellel – köteles tanúvallomást tenni.
(2) Tanúként nem hallgatható meg

(2) He may not be heard as a witness
a) the person from whom a confession that can be evaluated as evidence is not expected,
b) the person who has not been exempted from confidentiality regarding a fact considered to be protected data.
(3) The witness may refuse to testify if
a) any customer relative (hereinafter: relative),
b) with his testimony, he would accuse himself or a relative of committing a crime,
c) a media content service provider pursuant to the Act on Freedom of the Press and the Basic Rules of Media Content (hereinafter: media content service provider), or a person in an employment or other legal relationship with him – even after the termination of the legal relationship – and, with his testimony, the media content – would reveal the identity of the person providing information in connection with service provider activities, or
d) a person receiving diplomatic immunity.

Section 67 [The hearing of witnesses][277]
(1) At the beginning of the hearing, the authority establishes the identity of the witness. The authority calls the witness to state what kind of relationship he has with the clients and whether he is biased, and at the same time warns him of his rights and obligations and the legal consequences of false testimony.
(2) A witness who has not yet been heard may not be present at the hearing of the client, other witnesses and the expert.
(3) The rules of the hearing must be applied to the hearing even if the authority hears the witness outside the hearing.

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a) az, akitől nem várható bizonyítékként értékelhető vallomás,
b) védett adatnak minősülő tényről az, aki nem kapott felmentést a titoktartás alól.
(3) A tanú a vallomástételt megtagadhatja, ha
a) bármelyik ügyfél Ptk. szerinti hozzátartozója (a továbbiakban: hozzátartozó),
b) vallomásával saját magát vagy hozzátartozóját bűncselekmény elkövetésével vádolná,
c) a sajtószabadságról és a médiatartalmak alapvető szabályairól szóló törvény szerinti médiatartalom-szolgáltató (a továbbiakban: médiatartalom-szolgáltató), vagy vele munkaviszonyban vagy munkavégzésre irányuló egyéb jogviszonyban álló személy – a jogviszonya megszűnése után is –, és a tanúvallomásával a számára a médiatartalom-szolgáltatói tevékenységgel összefüggésben információt átadó személy kilétét felfedné, vagy
d) diplomáciai mentességben részesülő személy.

[277] 33.Tanú
66. §[A tanúra vonatkozó általános szabályok]
(1) A tanúként idézett személy – az e törvényben meghatározott kivétellel – köteles tanúvallomást tenni.
(2) Tanúként nem hallgatható meg
a) az, akitől nem várható bizonyítékként értékelhető vallomás,
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a) bármelyik ügyfél Ptk. szerinti hozzátartozója (a továbbiakban: hozzátartozó),
b) vallomásával saját magát vagy hozzátartozóját bűncselekmény elkövetésével vádolná,
c) a sajtószabadságról és a médiatartalmak alapvető szabályairól szóló törvény szerinti médiatartalom-szolgáltató (a továbbiakban: médiatartalom-szolgáltató), vagy vele munkaviszonyban vagy munkavégzésre irányuló egyéb jogviszonyban álló személy – a jogviszonya megszűnése után is –, és a tanúvallomásával a számára a médiatartalom-szolgáltatói tevékenységgel összefüggésben információt átadó személy kilétét felfedné, vagy
d) diplomáciai mentességben részesülő személy.

(4) The client and other participants in the proceedings may not be present at the hearing of the witness if the witness testifies about protected data or if the witness's natural personal identification data and residential address have been ordered to be kept private.
(5) The authority may allow the witness to testify in writing after or instead of the hearing.
(6) If the witness testifies in writing without a hearing or after being heard, it must be clear from the written testimony that the witness gave the testimony knowing the obstacles to testifying and the consequences of false testimony. The authority warns the witness of this at the same time as authorizing the written testimony, explaining the obstacles to testifying and the consequences of false testimony.

bb. The taking of statements from Economic Operators

A typical measure of an administrative authority in order to clarify facts for a procedure is it to use the summons procedure. The general Act on administrative procedure provides for: **68**

28. Summons Section 58 [General rules for summons]
(1) The authority shall oblige a person whose personal hearing is required during the proceedings to appear at the designated place and time. If the summoned person is unable to appear before the authority due to his age, state of health or other reasonable reason, the summoned person may also be heard at his place of residence.
(2) Unless otherwise required by the circumstances of the case, the summons shall be served in such a way that the person summoned is informed of it at least five days before the hearing.
(3) The summons shall state the matter in which the authority intends to hear the summoned person and in what capacity. The summoned person shall be warned of the consequences of failure to appear.

In the customs area the customs code Law XII from 2017 ensures the **right to be heard**: **69**

Section 65 [Ensuring the right to be heard][278]
(1) During the exercise of the right to a hearing, the customs authority may make a video and audio recording of the person involved in the case, the statement made by him and the means of proof brought by the customer during the statement. Image and audio recording made by the customs authority, as well as the personal data contained therein a) customs control and control following the release of goods,

[278] 9. § [Joghatóság, hatáskör, illetékesség]
(1) A vámhatóság a joghatóságát, hatáskörét és illetékességét az eljárás minden szakaszában hivatalból vizsgálja.
(2) Ha a vámhatóság hatáskörének vagy illetékességének a hiányát észleli, és kétséget kizáróan megállapítható az ügyben hatáskörrel vagy illetékességgel rendelkező hatóság vagy szerv, akkor a vámjogszabályok eltérő rendelkezése hiányában az ügyfél egyidejű értesítése mellett az ügyet 8 napon belül átteszi.
(3) Ha a 39. § szerinti kérelmet másik tagállam vámhatóságának kell befogadnia, akkor erről az ügyfelet tájékoztatni kell.

b) criminal or violation proceedings initiated in connection with the violation of customs legislation, or
c) with the exception of point a), during the customs administration procedure under the jurisdiction of the customs authority or the exercise of the rights of the person concerned can be used for this purpose.
(2) When starting to exercise the right to be heard, the customer must be informed about the making of the video and audio recording and its legal conditions, as well as the possibility of viewing the recording.
(3) The customs authority stores the video and audio recording in its electronic data storage system and deletes it after the retention period according to § 33 has expired.

cc. Inspections

70 Administrative inspections[279], which are mainly, as described above, initiated ***ex officio*** **during** or at the beginning of an administrative procedure in a certain area e.g. funding area or **inspections upon petitions** of citizens are carried out by an administrative inspector, who is autonomous in his work and will (still) regularly **stipulate questions of fundamental rights** according to Art. 7 and 8 CFR and ECHR case law, such as the right to enter a premise or not and if a prior judicial authorization is needed or not.[280] The following general rules will be relevant in Hungary.

(1) Law XLIIV 2022

71 Art. 13 para 2 (a) of the Law XLIV. 2022 on Inspection into Grant Irregularities grants the right to conduct searches on premises and in homes or company halls of Economic operators. This inspection powers depend on the area of sus-pected action of a beneficiary. An inspection in a matter, that is governed by the rules of the General Administrative Law 2016 is foreseen by ss. 68 et seq:

[279] For a definition see Law Insider 2024 https://www.lawinsider.com/dictionary/administrative-inspection. Accessed 31 January 2025.

[280] See the arguments of de Bellis 2021, who refers to the German "Hoechst case" [Joined Cases C-46 & 227/88, Hoechst AG v. Comm'n, 1989 E.C.R. I-02859], which the ECJ had to decide, pointing out : "proportionality is the guiding principle to assess any limitation [of any right]". She draws the conclusion that: "In contrast, national law, and in particular the prior warrant requirement, shall apply only when national officers assist OLAF and when an economic operator formally resists the inspection. The recent change to OLAF's Regulation further limits the scope of ex ante judicial authorization for OLAF's inspections and strengthens the argument according to which the lawfulness of inspection powers largely depends on the scope and features of ex post review."

34. Review[281] **72**

Article 68 [General Rules for Inspections]

(1) If the inspection or observation of a movable, immovable object (hereinafter: inspection object) or a person is necessary to clarify the facts, the authority may order an inspection.

(2) The owner of the object of investigation and the person named in paragraph 1 are to be informed before the investigation if this does not jeopardize the effectiveness of the investigation.

(3) The absence of the owner of the inspection object – unless his presence is required – does not prevent the inspection from being carried out.

(4) If the confidentiality of the private identification data and the home address of the owner of the object to be inspected has not been ordered, the customer may be present at the inspection.

Article 69 [Carrying out the inspection][282]

(1) During the inspection, the owner of the inspection item may be required to present the inspection item or to allow the customer to enter the inspection site, at the same time as the known owner is notified.

(2) The incumbent member of the authority is particularly entitled to inspect the documents

a) to enter the premises, buildings and other facilities affected by the control,

b) examine any document, object or work process,

c) request information or

d) take a sample.

[281] 34.Szemle

68. §[A szemlére vonatkozó általános szabályok]

(1) Ha a tényállás tisztázására ingó, ingatlan (a továbbiakban együtt: szemletárgy) vagy személy megtekintése vagy megfigyelése szükséges, a hatóság szemlét rendelhet el.

(2) A szemletárgy birtokosát és az (1) bekezdésben meghatározott személyt – ha az a szemle eredményességét nem veszélyezteti – a szemléről előzetesen értesíteni kell.

(3) A szemletárgy birtokosának távolléte – ha jelenléte nem szükségszerű – nem akadálya a szemle megtartásának.

(4) Ha a szemletárgy birtokosa természetes személyazonosító adatainak és lakcímének zárt kezelését nem rendelték el, a szemlén az ügyfél jelen lehet.

[282] 69. §[A szemle lefolytatása]

(1) A szemle megtartása során – az ismert tulajdonos értesítésével egyidejűleg – a szemletárgy birtokosa kötelezhető a szemletárgy felmutatására, illetve arra, hogy az ügyfelet a szemle helyszínére beengedje.

(2) A szemle során a hatóság eljáró tagja jogosult különösen

a) a szemlével érintett területre, építménybe és egyéb létesítménybe belépni,

b) bármely iratot, tárgyat vagy munkafolyamatot megvizsgálni,

c) felvilágosítást kérni, illetve

d) mintát venni.

Article 70 [Inspection for immediate procedural action][283]
(1) In order to carry out the control effectively and safely, the authority may request the *cooperation of the police*.
(2) According to the provisions of the Police Act on Cooperation in Conducting Enforcement Proceedings, at the request of the authority – without prior request – the police shall cooperate promptly, at the specified place and at the specified time by the authority.
(3) If the on-site inspection is necessary for immediate procedural action in a life-threatening situation or *in the event of serious damage*, or if the law permits this for another important reason, the on-site inspection is carried out by the authority by opening the closed area, building or site, the will of the people staying there can be observed regardless.
(4) The public prosecutor's office must be notified of the conduct of an inspection in the manner specified in paragraph 3 – immediately after the official decision on the conduct of the inspection – and the participation of the police and, if possible, an official witness must be requested in advance. If the public prosecutor does not agree to the inspection being carried out, he prohibits it.

(2) Government Decree 2021

73 **114. Planning of on-site inspections**
Section 447
The managing authority during the planning of on-site inspections
a) prepares a risk analysis methodology,
b) performs a risk analysis based on the risk analysis methodology,
c) determine the expected number of on-site inspections, and
d) draws up an annual control plan.

Section 448
(1) The risk analysis methodology must define the aspects of the risk analysis, its course, and the rules for preparing and revising the annual control plan.
(2) The managing authority shall review the risk analysis methodology annually by October 15 at the latest in order to take into account error percentages and other known risk factors.
(3) The review process must be documented in writing.

[283] 70. §[Az azonnali eljárási cselekmény érdekében lefolytatott szemle]
(1) A szemle eredményes és biztonságos lefolytatása érdekében a hatóság a rendőrség közreműködését kérheti.
(2) A rendőrség a rendőrségről szóló törvény végrehajtási eljárás lefolytatásában való közreműködésre vonatkozó szabályai szerint, a hatóság felkérésére – előzetes megkeresése nélkül – azonnal, a hatóság által megjelölt helyen és ideig biztosítja a közreműködést.
(3) Ha a helyszíni szemlére életveszéllyel vagy súlyos kárral fenyegető helyzetben, azonnali eljárási cselekmény érdekében van szükség, illetve, ha ezt törvény más fontos okból megengedi, a helyszíni szemlét a hatóság a lezárt terület, épület, helyiség felnyitásával, az ott tartózkodó személyek akarata ellenére is megtarthatja.
(4) A (3) bekezdésben meghatározott módon történő szemle megtartásáról az ügyészt előzetesen – a szemle megtartásáról való hatósági döntést követően haladéktalanul – értesíteni kell, továbbá ahhoz a rendőrség és lehetőség szerint hatósági tanú közreműködését kell kérni. Ha az ügyész a szemle megtartásával nem ért egyet, azt megtiltja.

Section 449
must be considered during the risk analysis in particular.
1. risk factors arising in connection with the call in question,
2. the type of project,
3. the total cost of the project,
4. the planned implementation period of the project,
5. the type of beneficiary,
6. the number of projects implemented by the beneficiary,
7. the subsidy rate,
8. the type of settlement,
9. the rate and amount of the advance payment,
10. the number of problems and irregularities previously encountered during the implementation of the project,
11. irregularities that arose in connection with other projects of the beneficiary and their number,
12. significant delay in project implementation compared to the planned schedule,
13. the time elapsed since the previous on-site inspection,
14. irregularities and risks established during audits by the audit authority,
15. changes due to legal succession or project transfer that occurred during the life of the project,
16. redistribution in favor of project management costs within the total eligible costs.

Section 450
(1) Based on the risk analysis, the managing authority prepares an annual control plan for the following calendar year by October 31 of each year.
(2) The annual control plan must contain, in particular,
a) the names of the projects to be inspected or – if the names of the projects to be inspected are not yet possible at the time of preparing the annual inspection plan – at least the number or ratio of the projects to be inspected per construction,
b) the type of control,
c) the schedule of inspections in a half-yearly breakdown,
d) the necessary human resources, also planning extraordinary inspections.
(3) […]

Section 451
(1) The annual inspection plan must be reviewed at least every six months.
(2) The revised annual inspection plan must also include data on the on-site inspections conducted in the first half of the year.
(3) […]

115. Preparation of the on-site inspection
Section 452
(1) The on-site inspection shall be carried out by at least two persons.
(2) The managing authority issues a mandate letter to the on-site inspector.

Section 453
(1) If the nature of the call or the project justifies it, the managing authority may involve an external expert in conducting the on-site inspection.
(2) The managing authority concludes a contract with the external expert, in which the expert declares confidentiality and conflicts of interest.

Section 454
The managing authority prepares the on-site inspector for the on-site inspection by providing the documents and information necessary to carry out on-site inspection activities.

Section 455
(1) The managing authority shall coordinate the date of the on-site inspection with the beneficiary in advance.
(2) The managing authority shall notify the beneficiary of the on-site inspection at least five days before the date of the on-site inspection.
(3) A shorter period than the one referred to in paragraph (2) can be established if the beneficiary has given documented consent to it.
(4) The managing authority may refrain from agreeing on the date of the on-site inspection and notifying about the on-site inspection if this would endanger the effectiveness of the on-site inspection.

116. Conduct of on-site inspection
Section 456
Before conducting the on-site inspection, the on-site inspector must
a) prove your identity, present your letter of authorization and provide information on which organization you are performing the inspection on behalf of,
b) to provide information on the type and purpose of the on-site inspection and the aspects to be examined.

Section 457
(1) During the on-site inspection, special inspections must be carried out
a) the physical and financial progress of the project in accordance with the support contract and their consistency,

b)hat the original copies of the documents supporting the implementation of the project and the payment request or certified copies of them electronically produced in the manner required by law are available,
c) compliance with the rules on publicity and information,
d) of horizontal requirements,
e) keeping project-level separate accounting records,
f) the fulfilment of the indicators reported in the project – including the indicators from the questionnaires – and project-level milestones and their supporting documents, and
g) in the case of conditionally non-reimbursable support, the fulfilment of the implementation conditions, taking into account the managing authority determines the proportion of the support affected by reimbursement.
(2) During the maintenance period, it must be examined among projects selected by sampling on the basis of risk analysis
a) the fulfilment of obligations regarding the maintenance period undertaken in the support contract and
b) the registration and preservation of documents related to the project.

Section 458
The verification of accounting documents can be done on the basis of sampling, according to the methodology developed by the managing authority.

Section 459
The on-site inspector is authorized
a) to enter the premises of the inspected organization, taking into account the safety regulations and work schedule of the inspected organization,
b) inspect documents and other documents related to the subject of the inspection, data stored on electronic data carriers at the audited organization in compliance with the data and privacy protection regulations defined in the law, and have a copy or extract made of them,
c) to request information from the head of the audited organization and its employee acting on the issue affected by the audit,
d) take photos, video or audio recordings during the on-site inspection.

dd. Searches and Seizures: The system of the measures in the Hungarian Customs Code

Section 90 of the Customs Code can apply here. It enables the customs officials to seize and confiscate products that were illegally introduced into the territory of Hungary. **74**

Section 90[284] *[Seizure and confiscation related to illegal introduction]*
(1) In the event of a violation according to § 84, paragraph (12), the customs authority will seize the affected excise goods and the converted means used for transport.

[284] 90. § [Jogellenes bejuttatással kapcsolatos lefoglalás és elkobzás]
(1) A 84. § (12) bekezdése szerinti jogsértés esetén a vámhatóság az érintett jövedéki termékeket és a szállításra használt átalakított eszközt lefoglalja.
(2) Ha a 84. § (1) bekezdés b) pontja szerinti jogsértést a 84. § (3) bekezdése e) pontja alapján oly módon követik el, hogy az Európai Unió vámterületére nem uniós árut juttatnak be, akkor a vámhatóság a közölt vámok és egyéb terhek, valamint a kiszabott vámigazgatási bírság összegének megfizetéséig biztosítékként – a nélkülözhetetlen dolgok, illetve egyéb jogsértés hiányában a romlandó áruk és az élő állatok kivételével – lefoglalhatja azt az árut, amelyre a kötelezettségszegést elkövették, valamint az annak felhasználására, tárolására, szállítására használt eszközt, különösen akkor, ha
a) valószínűsíthető, hogy a követelés későbbi kielégítése veszélyben van,
b) az ügyfélnek vám és egyéb teher vagy vámigazgatási bírság tartozása van, vagy
c) a lefoglalással, tárolással, szállítással, értékesítéssel várhatóan felmerülő költségek nem jelentenek aránytalan terhet a tartozáshoz vagy az áru, eszköz értékéhez képest.
(3) Az eljáró vámhivatal a lefoglalt dolgokat a vámigazgatási eljárás lefolytatásához szükséges áruazonosításra alkalmas módon jelzéssel látja el.
(4) A lefoglalással érintett vámigazgatási eljárásban hozott döntés ellen benyújtott fellebbezést a döntés közlésétől számított 8 napon belül kell előterjeszteni a lefoglalást végző vámhivatalnál, amely köteles azt a másodfokú eljárást lefolytató szervhez a beérkezéstől számított 3 napon belül megküldeni. A lefoglalással érintett vámigazgatási eljárásban hozott döntés ellen benyújtott fellebbezést a másodfokú eljárást lefolytató szerv a megküldéstől számított 15 napon belül bírálja el. A lefoglalással érintett vámigazgatási eljárásban hozott döntés ellen benyújtott fellebbezésnek a lefoglalás végrehajtására nincs halasztó hatálya.
(5) A (2) bekezdés szerinti lefoglalást meg kell szüntetni, ha
a) a vámigazgatási ügyben közölt vámok és egyéb terhek összegét, továbbá a végleges döntéssel megállapított vámigazgatási bírságot megfizették, vagy
b) a lefoglalt, szállításra használt eszköz nem a jogsértést elkövető tulajdona, és a tulajdonos írásban nyilatkozik arról, hogy a szóban forgó jogsértés időpontjában nem volt tudomása arról, hogy az eszközt vámjogszabályok megsértése céljából használják fel, és ezt követően a tényállás a lefoglalás fenntartása nélkül is tisztázható.
(6)
(7) A 20. § (3) bekezdés szerinti személyek részére visszaadni rendelt, nem uniós árut és eszközt a lefoglalás megszüntetéséről rendelkező döntés közlését követő 30 napon belül vámeljárás alá kell vonni, vagy ki kell szállítani az Európai Unió vámterületéről.
(8) A 20. § (4) bekezdésében foglaltakon túl a vámhatóság a lefoglalt, nem uniós árut és eszközt értékesíti, ha a lefoglalt, szállításra használt eszköz tulajdonosa az (5) bekezdés b) pontja szerinti nyilatkozatát a vámhatóság felhívására sem teljesíti.
(9) A lefoglalt áru és eszköz elszállításával, tárolásával, őrzésével kapcsolatos költségek az ügyfelet terhelik, ha az ügyfelet végleges döntéssel vámigazgatási bírság megfizetésére kötelezték. Ellenkező esetben a felmerült költségeket az állam viseli.
(10) Ha az ügyfél a közölt vámokat és az egyéb terheket vagy a vámigazgatási bírságot nem fizette meg, a biztosítékként lefoglalt nem uniós árut, valamint annak felhasználására, tárolására és szállítására használt eszközt el kell kobozni, és – az FJA 243. cikkében meghatározott kivétellel – értékesíteni kell.
(11) Az (1) bekezdés szerint lefoglalt jövedéki terméket a lefoglalással egyidejűleg el kell kobozni, majd ezt követően meg kell semmisíteni, ha végleges döntéssel vámigazgatási bírság kerül megállapításra.
(11a) Ha a 84. § (12) bekezdése szerinti jogsértés kapcsán a vámhiány összegére tekintettel bűncselekmény gyanúja merül fel, akkor a jövedéki termék elkobzására legkorábban a lefoglalást követően 30. napon belül kell intézkedni feltéve, hogy a 20. § (1) bekezdés d) pontja szerinti megkeresés nem érkezett a vámhatósághoz.
(12) A (1) bekezdés szerint lefoglalt jövedéki termékek megsemmisítése tekintetében a vámjogszabályok eltérő rendelkezése hiányában a jövedéki jogszabályok rendelkezései irányadóak.
(13) Az (1) bekezdés szerint lefoglalt, szállításra használt átalakított eszköz elkobzását a (11)–(11a) bekezdés szerint kell végrehajtani, azzal, hogy az ilyen eszközt értékesíteni kell, feltéve, hogy a vevő az értékesítéskor kötelezettséget vállal arra, hogy a jogsértést lehetővé tevő átalakítást 3 hónapon belül megszünteti, és az eszközt a vámhatóságnál bemutatja.
(14) Az elkobzott közúti, vízi és légi járművek értékesítés helyett a NAV szervei részére, feladatuk ellátásához történő használatra – a NAV vezetőjének jóváhagyásával – átadhatók.
(15) A lefoglalt és azzal egyidejűleg vagy azt követően elkobzott árukat terhelő vám és egyéb teher fizetési kötelezettséget vámhiányként a vámigazgatási bírság megállapítása szempontjából figyelembe kell venni.

(2) If the violation according to Section 84 (1) point *b)* is committed based on Section 84 (3) point *e)* in such a way that non-EU goods are brought into the customs territory of the European Union, then the customs authority until payment of the declared customs duties and other burdens, as well as the amount of the imposed customs administrative fine, as security – with the exception of perishable goods and live animals – in the absence of essential items or other violations of the law – the goods on which the breach of obligation was committed, as well as the use, storage, and transportation thereof used device, especially if
a) it is probable that the later satisfaction of the claim is in danger,
b) the customer owes duties and other charges or customs administration fines, or
c) the costs expected to be incurred by seizing, storing, transporting, and selling do not represent a disproportionate burden compared to the debt or the value of the goods or assets.
(3) The acting customs office marks the seized items in a manner suitable for the identification of the goods necessary for the conduct of the customs administration procedure.
(4) An appeal filed against a decision made in a customs administration procedure affected by seizure must be submitted within 8 days from the notification of the decision to the seizing customs office, which must send it to the body conducting the second instance procedure within 3 days from receipt. The appeal submitted against the decision made in the customs administration procedure affected by the seizure will be judged by the body conducting the second instance procedure within 15 days from the date of sending. An appeal filed against a decision made in the customs administration procedure affected by the seizure does not have the effect of postponing the execution of the seizure.
(5) Seizure pursuant to subsection (2) must be terminated if
a) the amount of customs duties and other burdens notified in the customs administration case, as well as the customs administration fine determined by the final decision, have been paid, or
b) the seized device used for transport is not the property of the person who committed the violation, and the owner declares in writing that at the time of the violation in question, he was not aware that the device was being used for the purpose of violating customs legislation, and thereafter the facts without maintaining the seizure can also be clarified.
(6) […]
(7) Non-EU goods and equipment ordered to be returned to the persons according to § 20, paragraph (3) must be subjected to customs procedures or transported out of the customs territory of the European Union within 30 days of the notification of the decision to terminate the seizure.
(8) In addition to the provisions of Section 20 (4), the customs authority shall sell the seized non-EU goods and equipment if the owner of the seized equipment used for

transport does not fulfil the declaration according to point *b)* of subsection (5) even when called upon by the customs authority.
(9) The costs related to the transportation, storage, and safekeeping of the seized goods and equipment shall be borne by the customer if the customer has been ordered to pay a customs fine by a final decision. Otherwise, the incurred costs are borne by the state.
(10) If the customer has not paid the notified duties and other charges or the customs administrative fine, the non-EU goods seized as security, as well as the means used for their use, storage and transport, must be confiscated and – with the exception specified in Article 243 of the FJA – must be sold.
(11) Excise goods seized according to paragraph (1) must be confiscated at the same time as the seizure, and must then be destroyed if a customs administration fine is imposed by a final decision.
(11a) If there is a suspicion of a crime in relation to the violation of § 84, paragraph (12) in view of the amount of the customs deficit, measures must be taken to confiscate the excise product within 30 days after seizure at the earliest, provided that § 20 (1) no request according to paragraph *d)* was received by the customs authority.
(12) With regard to the destruction of excise goods seized according to paragraph (1), in the absence of a different provision in the customs legislation, the provisions of the excise legislation shall govern.
(13) The confiscation of a converted asset used for transportation seized in accordance with paragraph (1) must be carried out in accordance with paragraphs (11)-(11a), with the provision that such asset must be sold, provided that the buyer undertakes at the time of the sale to that the conversion enabling the infringement is terminated within 3 months and that the device is presented to the customs authorities.
(14) Instead of selling confiscated road, water and air vehicles, they may be handed over to NAV bodies for use in the performance of their tasks – with the approval of the head of NAV.
(15) The obligation to pay customs duties and other burdens on seized and simultaneously or subsequently confiscated goods must be taken into account as a customs deficit from the point of view of determining the customs administration fine.

75 Besides the customs area the investigation, that was mentioned above is the Detection of Irregularities in the area of Grants. Art. 13 para 2 (a) of the Law XLIV. 2022 on Inspection into Grant Irregularities grants the right to conduct searches on premises and in homes or company halls of Economic operators. This inspection powers depend on the area of suspected action of a beneficiary.

(1) General remarks

76 Areas, that enable Hungarian State Authorities to carry out external investigation measures together with OLAF contain all provisions for search measures to discover administrative irregularities. As the EPPO has not office in Hungary yet, there is no obligation to submit information to the EPPO if a suspicion for a criminal fraud offence

arises. Instead the national bodies will need to inform the national bodies which are able to conduct criminal investigation such as the General Procurator (see Part. A. Hypothetical Considerations of the EPPO in Hungary).

(2) Formal requirements

If an inspection in the **area of grant spending** in a Hungarian authority, on the premises of a Hungarian Economic Operator or in a Facility that receives EU Money to carry out a certain project is conducted, the Inspector working on behalf of the Hungarian General Directorate for Inspections and Irregularities in the Grant Spending Area needs **to inform the concerned person** properly. The legislator has opted for an information procedure that needs to be carries out at least 5-days before the inspection takes place. It can be done orally or in writing. From the point-of-view of this study the oral information seems a bit problematic. The information can get easily get lost or information are incorrect if submitted orally only. It would be better – and more bureaucratic but even more conform to the rule of law state – if the notification of the person concerned would be done orally and then specified in writing. **77**

Section 14[285] **78**

(1) The on-site inspection must be announced orally or in writing at least five days before the organization being conducted is to be conducted. The lead investigator provides information about the purpose and form of the inspection and the legal authorization. The advance notice does not have to be given if, according to the available data, it is likely to prevent the on-site inspection from being carried out effectively. The head of the investigation decides whether the pre-registration is to be waived.

(2) At the start of the on-site inspection, the auditor shall present his credentials to the head of the audited organization or, if the head of the audited organization is not present, to the employee of the audited organization. The absence of the head of the audited organization does not prevent the audit from being carried out.

[285] 14. § (1) A helyszíni ellenőrzést annak megkezdése előtt legalább öt nappal, szóban vagy írásban be kell jelenteni az ellenőrzött szervezet vezetőjének. Ennek keretében a vizsgálatvezető tájékoztatást ad az ellenőrzés céljáról és formájáról, a jogszabályi felhatalmazásról. Az előzetes bejelentést nem kell megtenni, ha az – a rendelkezésre álló adatok alapján – meghiúsíthatja a helyszíni ellenőrzés eredményes lebonyolítását. Az előzetes bejelentés elhagyásáról a vizsgálatvezető dönt.
(2) A helyszíni ellenőrzés megkezdésekor az ellenőr köteles bemutatni a megbízólevelét az ellenőrzött szervezet vezetőjének vagy ha az ellenőrzött szervezet vezetője nincs jelen, akkor az ellenőrzött szervezet alkalmazottjának. Az ellenőrzött szervezet vezetőjének távolléte nem jelenti az ellenőrzés lefolytatásának akadályát.
(3) A helyszíni ellenőrzés során az ellenőrzött szervezet vezetőjétől teljességi nyilatkozatot kell kérni, amelyben az ellenőrzött szervezet vezetője igazolja, hogy az ellenőrzött feladattal összefüggő, felelősségi körébe tartozó valamennyi okmányt, illetve információt hiánytalanul az ellenőr rendelkezésére bocsátotta.
15. § (1) Az ellenőrzést a Főigazgatóság főigazgatója megszakíthatja, amennyiben a Főigazgatóságnak soron kívüli ellenőrzést kell lefolytatnia, illetve a vizsgálatvezető vagy az ellenőr akadályoztatva van.
(2) Az ellenőrzést a Főigazgatóság főigazgatója felfüggesztheti, amennyiben a számviteli rend állapota, a dokumentáció és a nyilvántartások hiányossága, illetve az ellenőrzött jogsértő magatartása az ellenőrzés folytatását akadályozza.
(3) A Főigazgatóság főigazgatója az ellenőrzés megszakítása vagy felfüggesztése esetén írásban tájékoztatja az ellenőrzött szervezet vezetőjét, amelyben az ellenőrzés felfüggesztése esetén határidő megállapításával felhívja az ellenőrzött szervezet vezetőjét az akadály megszüntetésére.

(3) During the on-site inspection, the head of the audited organization must request a declaration of completeness, in which the head of the audited organization certifies that he has made available to the auditor all documents and information in connection with the audited task and in fall under his responsibility.

(3) Substantive requirements

79 The Inspection – especially the search measure, which is applicable under s. 13 para 2 (a) Law XLIV. 2022 on Grant Spending and Irregularities will need to be proportionate. If another measure could prove the suspected facts more easily, the proportionality principle will ask the Inspector to reconsider his Inspection plan. The Defence could otherwise use the disproportional Inspection as argument for the unlawfulness of the measure.

80 Article 15 defines more rules, which can be considered as substantive requirements:

81 **Section 15**[286] (1) The Director-General of the Directorate-General may interrupt the inspection if the Directorate-General has to carry out an extraordinary inspection or the investigator or inspector is impeded.
(2) The audit may be suspended by the Director General of the Directorate-General if the state of the accounts, the lack of documents and records or the unlawful conduct of the audited entity prevent the audit from continuing.
(3) In the event of the interruption or suspension of the audit, the Director-General of the General Directorate shall notify the head of the audited organization in writing, and in the event of the suspension of the audit calling on the head of the audited organization to remove the obstacle, setting a deadline.

ee. The seizure of digital forensic evidence including bank account information

82 The seizure of digital forensic evidence including bank account information becomes more and more important. The recent changes of the OLAF Regulation No 883/2013 (as amended 2020/2223) codified that OLAF shall under the same conditions that apply to national competent authorities have access to bank account information. OLAF investigators should request access to bank account information through the MNB or other competent Hungarian authorities. Article 4, 6, 9 amd 13 of the OLAF Guidelines outlines the general procedure for conducting digital forensic operation and all needs to be written into the **Digital Forensic Operation Report** documenting the chain of evidence.

[286] 15. § (1) Az ellenőrzést a Főigazgatóság főigazgatója megszakíthatja, amennyiben a Főigazgatóságnak soron kívüli ellenőrzést kell lefolytatnia, illetve a vizsgálatvezető vagy az ellenőr akadályoztatva van.
(2) Az ellenőrzést a Főigazgatóság főigazgatója felfüggesztheti, amennyiben a számviteli rend állapota, a dokumentáció és a nyilvántartások hiányossága, illetve az ellenőrzött jogsértő magatartása az ellenőrzés folytatását akadályozza.
(3) A Főigazgatóság főigazgatója az ellenőrzés megszakítása vagy felfüggesztése esetén írásban tájékoztatja az ellenőrzött szervezet vezetőjét, amelyben az ellenőrzés felfüggesztése esetén határidő megállapításával felhívja az ellenőrzött szervezet vezetőjét az akadály megszüntetésére.

Section 51 Banking Act 2013
(1) In the course of its proceedings, the MNB may request data from the criminal records system, the register of convictions handed down against Hungarian citizens by the courts of the Member States of the European Union, and the criminal records system pursuant to the Act on the Registration of Criminal and Law Enforcement Biometric Data.
(2) The request for data may be made in respect of persons subject to the laws specified in Section 39 and may relate to the verification of whether the data subject is subject to the ground for exclusion specified in the law laying down the conditions for the exercise of his or her activities.

Section 57 Banking Act 2013
(1) Within the scope of its tasks specified in Section 4(9), the MNB may use individual data received from a foreign financial supervisory authority in the course of international cooperation only for the following purposes, and may disclose data to a foreign financial supervisory and resolution authority and to an entity specified in Section 140(1)(a) for the following purposes:
a) for assessing applications for establishment and activity licensing, checking the contents of the license, assessing the prudent operation of organizations, and for judicial or criminal proceedings related to the decision of the MNB,
(b) to inform the decision of the financial supervisory and resolution authority and any judicial or criminal proceedings relating thereto, in particular the measures applied and sanctions imposed, and
c) to carry out the tasks of the organisations referred to in point (a) of Paragraph 140(1) defined by an act of the European Union within the scope defined by an act of the European Union.
For the purposes of point (a) of paragraph 1, this shall include, in particular, data on the good repute, qualification requirements and professional training and further training of insurance and reinsurance distributors.
2. Individual data provided or obtained in the framework of supervisory cooperation may be transferred to third parties subject to the prior written consent of the reporting authority, if other conditions for transmission are met. The prior written consent of the reporting authority is not required if the transfer of the received data is directly necessary for judicial or criminal proceedings related to the decision of the MNB or the foreign financial supervisory authority.
(3) The MNB may process personal data obtained in the course of its administrative procedure pursuant to this Act and the laws specified in Section 39 for a maximum of five years from the termination of the last legal relationship of the person subject to authorisation and registration.
(4) In the absence of initiation of an official procedure, the MNB may process the data specified in Section 51 until the conclusion of the official control or, in the case of the initiation of an official procedure, until the decision or the order terminating the

proceedings becomes final, or until the final conclusion of the court proceedings related to the case, including extraordinary legal remedies or legal remedy.
(5) If the means of proof also contain personal data not related to the subject matter of the proceedings and the separation of data is not possible without prejudice to a given means of proof, the MNB shall be entitled to process all personal data affected by the means of proof, but it shall be entitled to examine personal data not related to the infringement under investigation only to the extent that it is satisfied that that the data are not related to the infringement under investigation.
(7) The MNB may transfer a secret pursuant to Section 150 (1) to the authority performing audit public oversight tasks acting within its competence. In this regard, persons exercising public oversight powers shall be bound by an obligation of confidentiality.

83 Further rules might be contained in the Act on the Registration of Criminal and Law Enforcement Biometric Data.

84 In fraud-related matters peculiarities might exist. A non-digital fraud does not require special knowledge. A digital-based fraud or fraud committed by digital means will require the assistance of a forensic expert. This might be even the case during or connected to a national on-site-inspection accompanied by OLAF Inspectors and Investigators.
A national database for forensic experts provides quick access to staff.[287]

ff. Digital forensic operations within inspections or on-the-spot checks

85 Digital forensic operations within inspections or on-the-spot checks became more and more important in the last decade already.[288] These are based on Regulation (EC) 2185/96, the OLAF Guidelines on Digital Forensic Procedures and the Hungarian Banking Act 2013. Article 6 of the OLAF Guidelines emphasizes that OLAF must work in close cooperation with the competent authorities of the Member State (in this case, Hungary) during on-the-spot checks and digital forensic operations. During on-site-inspections in the area of structural funds in Hungary, a Government Decree grants special powers to the investigators:

[287] See https://igazsagugyiinformaciok.kormany.hu/index. Accessed 31 January 2025.
[288] See for example the annual trainings, e.g. European Anti-Fraud Office, 26th OLAF Digital Forensics and Analysts training in 2024, online: https://anti-fraud.ec.europa.eu/media-corner/events/26th-olaf-digital-forensics-and-analysts-training-2024-11-25_en. Accessed 31 December 2024. Cf. also joint investigations of OLAF and EPPO involving digital forensics operations, online: https://ec.europa.eu/olaf-report/2022/investigative-activities/protecting-eu-funds/digitalisation_en.html. Accessed 31 December 2024.

Section 459[289] The on-site inspector is authorized
a) to enter the premises of the inspected organization, taking into account the safety regulations and work schedule of the inspected organization,
b) inspect documents and other documents related to the subject of the inspection, data stored on electronic data carriers at the audited organization in compliance with the data and privacy protection regulations defined in the law, and have a copy or extract made of them,
c) to request information from the head of the audited organization and its employee acting on the issue affected by the audit,
d) take photos, video or audio recordings during the on-site inspection.

k) Investigative missions in third countries

Investigative missions in third countries (e.g. in the southern countries of Europe) or countries in South-East Asia might be possible under common international contracts and the Association Agreements of OLAF with the e.g. the customs of these countries. **86**

l) National procedural rules for "checks and inspections" by the assisting national authority

The national rules for checks and inspections by the assisting national authority can be found in the Customs Code, the Tax Code and the Act on Audits from 2016. **87**

m) Cooperation and mutual assistance agreements

Cooperation and mutual assisstance agreements are essential as fraud and irregularities do not stop at the border of Hungary. The Union's Customs Cooperation mechanism applies as well as OLAF's Agreements with various partners across the EU. **88**

[289] 459. § A helyszíni ellenőr jogosult
a) az ellenőrzött szervezet helyiségeibe belépni, figyelemmel az ellenőrzött szervezet biztonsági előírásaira, munkarendjére,
b) az ellenőrzött szervezetnél az ellenőrzés tárgyához kapcsolódó iratokba és más dokumentumokba, az elektronikus adathordozón tárolt adatokba betekinteni a jogszabályban meghatározott adat- és titokvédelmi előírások betartásával, azokról másolatot, kivonatot készíttetni,
c) az ellenőrzött szervezet vezetőjétől és az ellenőrzéssel érintett kérdésben eljáró alkalmazottjától információt kérni,
d) a helyszíni ellenőrzés során fényképet, videó- vagy hangfelvételt készíteni.

4. Article 4 (Internal investigations)

1. Investigations within the institutions, bodies, offices and agencies in the areas referred to in Article 1 shall be conducted *in accordance with this Regulation and with the decisions adopted by the relevant institution, body, office or agency* ('internal investigations').
8. Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an internal investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the institution, body, office or agency concerned. Upon request, the institution, body, office or agency concerned shall inform the Office of any action taken and of its findings on the basis of such information.
Where necessary, the Office shall also inform the *competent authorities of the Member State concerned*. In this case, the procedural requirements laid down in the second and third subparagraphs of Article 9(4) shall apply. If the competent authorities decide to *take any action on the basis of the information transmitted to them, in accordance with national law*, they shall, upon request, inform the Office thereof.

1 Internal investigations of OLAF can lead to **repercussions at national level** ie the level of the authorities that cooperate with OLAF and which eg employed the economic operator, managed his funds etc. or who are responsible for disciplinary actions for officials that work at Union level or as a national expert for OLAF (corruption cases). The relationship of national disciplinary, union disciplinary proceedings and national criminal proceedings is highly important.[290] OLAF's cooperation with the EPPO applies only to its investigative activities. Even when the EPPO conducts or prepares to conduct an investigation, OLAF retains the ability to open coordination cases and support Member State actions, unless the EPPO exercises its right of evocation (Reg 2017/1939, Art. 27). Importantly, OLAF remains the sole authority responsible for internal investigations within EU institutions, bodies, offices, and agencies.[291]

2 The EPPO does not act in Hungary. Still it can be noted that while the EPPO focuses on prosecuting PIF offences, OLAF investigates all irregularities affecting the EU's financial interests, giving it a broader mandate beyond criminal law. In areas of punitive administrative law it is important to note that in order to protect the Union's financial interests the EPPO has no competence. Additionally, OLAF may act where the EPPO cannot, such as when an offence falls below the *de minimis* threshold of EUR 10,000, lacks Union-level repercussions, or does not involve EU officials (Reg 2017/1939, Art. 25 para 2.[292]

3 See above → Institutions, Competent authorities.

[290] See ECJ, Research note, Impact of ongoing criminal proceedings on the conduct of disciplinary proceedings, https://curia.europa.eu/jcms/upload/docs/application/pdf/2022-09/ndr_2020_001_neutralisee_en.pdf.
[291] Bovend'Eerdt 2024, p. 501.
[292] Bovend'Eerdt 2024, p. 501, footnote 31.

5. Article 5 (Opening of investigations)

[…] 5. If the Director-General decides not to open an investigation, he or she may without delay send any relevant information, as appropriate, to the *competent authorities of the Member State concerned* for appropriate *action to be taken in accordance with Union and national law* or to the institution, body, office or agency concerned for appropriate action to be taken in accordance with the rules applicable to that institution, body, office or agency. The Office shall agree with that institution, body, office or agency, if appropriate, on suitable measures to protect the confidentiality of the source of that information and shall, if necessary, ask to be informed of the action taken.

a) Competent authorities

See above → Competent authorities. **1**

b) National rules

The national rules can be mainly determined from the following Acts: **2**

- Law CLII from 2017, the Customs Law
- 2016 Law CL.to the general administrative procedure
- Law XLIV on the Directorate-General for the Examination of European Grants
- Hungarian Taxation Laws

[Article 6 – Access to information in databases prior to the opening of an investigation]

6. Article 7 (Investigations procedure)

[…] 3. The competent authorities of Member States shall give the necessary assistance to enable the staff of the Office to fulfil their tasks in accordance with this Regulation effectively and without undue delay. When providing such assistance, the competent authorities of Member States shall *act in accordance with any national procedural rules applicable to them*.

3a. At the request of the Office, which shall be explained in writing, in relation to matters under investigation, the relevant competent authorities of the Member States shall*, under the same conditions as those that apply to the national competent authorities*, provide the Office with the following:

(a) information available in the centralised automated mechanisms referred to in Article 32a(3) of Directive (EU) 2015/849 of the European Parliament and of the Council (4);

(b) where strictly necessary for the purposes of the investigation, the record of transactions.

The request of the Office shall include a justification of the appropriateness and proportionality of the measure with regard to the nature and gravity of the matters under investigation. Such request shall refer only to information referred to in points (a) and (b) of the first subparagraph.

Member States shall notify to the Commission the relevant competent authorities for the purposes of points (a) and (b) of the first subparagraph.

6. Where investigations show that it might be appropriate to take precautionary administrative measures to protect the financial interests of the Union, the Office shall without delay inform the institution, body, office or agency concerned of the investigation in progress. The information supplied shall include the following:

(a) the identity of the official, other servant, member of an institution or body, head of office or agency, or staff member concerned and a summary of the facts in question;

(b) any information that could assist the institution, body, office or agency concerned in deciding on the appropriate precautionary administrative measures to be taken in order to protect the financial interests of the Union;

(c) any special measures of confidentiality recommended, in particular in cases entailing the use of investigative measures falling within the competence of a national judicial authority or, in the case of an external investigation, within the competence of a national authority, *in accordance with the national rules applicable to investigations*.

The institution, body, office or agency concerned may at any time consult the Office with a view to taking, in close cooperation with the Office, any appropriate precautionary measures, including measures for the safeguarding of evidence. The institution, body, office or agency concerned shall inform the Office without delay about any precautionary measures taken.

7. Where necessary, it shall be for the competent authorities of the Member States, at the Office's request, to take the *appropriate precautionary measures under their national law*, in particular measures for the safeguarding of evidence.

a) References to national law

The next table explores for exemplification purposes the relevant national law in the area of the customs process and the customs investigation. OLAF might be a partner of a national authority in an external investigation concerning a customs duties fraud case and will then have to deal with the relevant Hungarian law, which is mainly enshrined in the Law CLII from 2017, the Customs Law. Likewise to the exemplification, equal provision in other area, that might be part of a fraud or irregularity apply in the same way as prescribed by Art. 7 OLAF Regulation: **1**

Sources & national sections 1: Art. 7 OLAF Regulation **2**

Para 3	The procedural rules can be mainly determined from the following relevant Acts: Law CLII from 2017, the Customs Law 3. Procedural principles **Section 3 [Role of principles]** In customs administration procedures – in accordance with the provisions of customs legislation and Fundamental Law XXIV. and XXVIII. – all participants in the procedure act in accordance with the rules governing them and in all stages of the procedure by enforcing the basic principles and basic rules defined in this subsection. **Section 4 [Principle of legality]** (1) The customs authority acts on the basis of the authorization of the law, exercising its authority within the framework of the law and according to its intended purpose. (2) The customs authority in the exercise of its powers a) in accordance with the requirements of professionalism, reasonableness, cooperation with the client and good faith, b) maintaining the requirement of equality before the law and equal treatment, without unjustified discrimination and partiality, c) within the deadline specified in the customs legislation, in a reasonable time is acting. (3) For the sake of professionalism and efficiency, the customs authority organizes its activities in such a way that it causes the least

costs to all participants in the procedure, and that the customs administration procedure can be concluded as quickly as possible.

Section 5 [Principle of *ex officio*]
With the exception of procedures that can only be initiated upon application, the customs authority initiates ex officio proceedings on the basis of customs legislation, during which it ex officio establishes the facts, determines the method and scope of proof, and can review its own decision and procedures within the framework of customs legislation.

Section 6 [Principles relating to the client and other participants in the procedure]
(1) The client and the witness, the official witness, the expert, the interpreter, the holder of the object of inspection (hereafter referred to as: other participant in the procedure) are obliged to act in good faith during the customs administration procedure and to cooperate with the customs authority, in which case their behavior cannot be directed by the customs authority to deceive, to delay the procedure or decision-making.
(2) The good faith of the client and other participants in the procedure must be presumed in the procedure, the customs authority is responsible for proving bad faith.

Section 7 [Basic principles concerning the customs authority]
The customs authority ensures that other participants in the procedure and the customer are aware of their rights and obligations in the customs administration procedure, and promotes the exercise of the customer's rights.

II. Chapter
4. General procedural provisions
Section 8 [Procedural obligation]
The customs authority is obliged to act in the matter within its competence in its area of competence or on the basis of designation. If the central or regional body of the customs authority does not comply with its procedural obligations, the superior body specified in the law orders it to conduct the procedure. If the superior body does not take action, the administrative court obliges the customs authority to carry out the procedure.

· 2016 Law CL.to the general administrative procedure

	· Law XLIV on the Directorate-General for the Examination of European Grants
Para 3a (a) (b)	· Law CLII from 2017, the Customs Law **11. To Article 16 of the Customs Code** **Section 33 [Preservation of data]** The data stored in the electronic systems of the customs authority and farmers, as well as any changes to them, must be kept for 10 years from the year of creation or modification of the data. 33/A. Section (1) If Commission Implementing Regulation (EU) 2017/2089 of November 14, 2017 on the technical rules for the development, maintenance and use of electronic systems for information exchange and information storage pursuant to the Union Customs Code (hereinafter: Customs IT Regulation) 5. (1) of the Customs Informatics Decree are only valid for Hungary in accordance with Article 5 (3) of the Customs Informatics Decree, then during the processing of applications and permits and related decisions, the customs authorities in accordance with Article 4 (2) of the Customs Informatics Decree common components of the decision system must be used. (2) The customs authority must perform the migration according to Article 13 (1) of the Customs Informatics Decree also in the case of licenses valid only for Hungary.
Para 6 (c)	· Law CLII from 2017, the Customs Law **VII. Chapter** **GIVING INFORMATION** 9. To Article 12 of the Customs Code **Section 27 [Customs secrecy]**[293] (1) In the course of carrying out duties related to the application of customs legislation, customs secret has come to the attention of the customs authorities, regardless of the form of its appearance. (2) The customs authority, as well as its employees, former employees, and all other persons involved in the inspection or the procedure, are obliged to preserve all legally protected secrets that come to their knowledge during the performance of their duties.

[293] VII. FejezetINFORMÁCIÓNYÚJTÁS
9.A Vámkódex 12. cikkéhez
27. § [Vámtitok]
(1) Vámtitok a vámjogszabályok alkalmazásával összefüggő feladatai elvégzése során a vámhatóság tudomására jutott minden információ, függetlenül annak megjelenési formájától.
(2) A vámhatóság, valamint alkalmazottja, volt alkalmazottja, az ellenőrzésbe vagy az eljárásba bevont minden más személy a feladatai ellátása során tudomására jutott minden, jogszabály által védett titkot köteles megőrizni.

Para 7	· Law CLII from 2017, the Customs Law **Section 48**[294] [*Clarification of the facts*] (1) The customs authority is obliged to clarify the facts necessary for decision-making. If the available data is not sufficient for this, a proof procedure is carried out. (2) Facts that are officially known by the customs authority and that are common knowledge do not need to be proven. (3) All evidence suitable for clarifying the facts may be used in the customs administration procedure. Evidence obtained by violating the law cannot be used as evidence. Evidence includes, among others, the client's statement, document, witness statement, inspection report, expert opinion, customs inspection report and physical evidence. (4) The customs authority freely chooses the method of proof. (5) The customs authority evaluates the evidence individually and as a whole, and establishes the facts according to its free conviction based on this.

Source: The authors.

b) References to national authorities

3 The reference to national authorities is **depended on the area of the irregularity** or suspected fraud. As we explored in the example above, the area of the customs duties, the relavant authorities are regulated and determined by either the Customs Law or special Customs Decrees from the relevant Ministry in Hungary. The competence of the national authorities might change from time to time, but it will be always coorect to say that the Main Office of the Hunagrian Customs Service and the Hungarian AFCOS will be the relevant authority to contact if it remains unclar who is competent in the relevant case.

[294] 48. § [A tényállás tisztázása]
(1) A vámhatóság köteles a döntéshozatalhoz szükséges tényállást tisztázni. Ha ehhez nem elegendőek a rendelkezésre álló adatok, bizonyítási eljárást folytat le.
(2) A vámhatóság által hivatalosan ismert és a köztudomású tényeket nem kell bizonyítani.
(3) A vámigazgatási eljárásban minden olyan bizonyíték felhasználható, amely a tényállás tisztázására alkalmas. Nem használható fel bizonyítékként a jogszabálysértéssel megszerzett bizonyíték. Bizonyíték többek között az ügyfél nyilatkozata, az irat, a tanúvallomás, a szemléről készült jegyzőkönyv, a szakértői vélemény, a vámellenőrzésről készült jegyzőkönyv és a tárgyi bizonyíték.
(4) A vámhatóság szabadon választja meg a bizonyítás módját.
(5) A vámhatóság a bizonyítékokat egyenként és összességükben értékeli, és az ezen alapuló szabad meggyőződése szerint állapítja meg a tényállást.

7. Article 8 (Duty to inform the Office)

[…] 2. The institutions, bodies, offices and agencies and, unless *prevented by national law*, the *competent authorities of the Member States* shall, at the request of the Office or on their own initiative, transmit without delay to the Office any document or information they hold which relates to an ongoing investigation by the Office. […]
3. The institutions, bodies, offices and agencies and, unless *prevented by national law*, the *competent authorities of Member States* shall transmit without delay to the Office, at the request of the Office or on their own initiative, any other information, documents or data considered pertinent which they hold, relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union.

A **report obligation** can at least be determined from the principle of sincere cooperation with Union bodies, cf. Art. 4 para 3 TEU. This principle applies in all areas of potential irregularities and frauds (for the typology of EU frauds see → hypothetical Art. 26 EPPO Regulation, where the material scope of the EPPO and Hungarian Authorities in Criminal Proceedings is determined). Additionally Art. 12a OLAF RG in combination with Art. 8 para 2 and 3 OLAF Regulation 883/2013 obliges the AFCOS of the present Member State to **report to OLAF** any of the requested material. The obligations exist throughout the **different areas of irregularities** (tax revenue related, customs revenue related; tax expenditure related ie structural funds area, direct grants etc.) and are therefore enshrined in different national laws. The competent authorities of the Member States are either the same that can conduct external investigations (in cases of resistance, *Sigma Orionis*[295]) or those that must be informed by the Director General if he/she decides not open a case according to Art. 5 para 5 OLAF Regulation No 883/2013 as amended 2020/2223. **1**

The Law on General Administrative Procedure provides for Acces to Procedural Records and Files of the Administration:

[Excerpt] 17. Access to Procedural Records **2**
Section 33 [Right to inspect files]
(1) The client can view the document created in the process at any stage of the process and after the process has been completed.
(2) The witness can view the document containing his testimony and the owner of the inspection item can view the document created during the inspection.
(3) A third party may access a document containing personal data or protected data if it proves that this is necessary to exercise the right of access to the data or to comply with an obligation under a law, a court or an official decision is.
(4) When inspecting the documents, the person entitled can make a copy or an excerpt or – against the reimbursement of expenses specified in a government ordinance – request a copy, which the authority will certify on request.

[295] See → Art 3 OLAF Regulation above in this volume.

(5) Unless the law restricts or excludes the publication of the decision, after the conclusion of the proceedings, anyone may inspect the final decision, which does not contain any personal data and protected data, as well as the first-instance annulment decision and the instruction to the authority that issued the first-instance has made the decision to initiate a new procedure without restriction.
(6) In certain cases, the law may determine further requirements for the inspection of documents and the group of persons entitled to inspect documents pursuant to subsection 3.

Section 34 [Restrictions on the right to inspect files]
(1) Inspection of the draft decision is not possible.
(2) A document or a part of a document from which some protected data or personal data can be inferred, the conditions of disclosure of which are not specified by law, shall not be disclosed unless the disclosure of the data – classified information excepted – their absence would prevent the person authorized to consult the documents from exercising their rights provided for by this law.
(3) On the basis of the request, the authority grants access to the files – even after the conclusion of the procedure – or rejects it by order.

II. References to National law in the OLAF Regulation (Art. 9–17 OLAF Regulation)

The next section of the volume explores the national law in the "second part" of the OLAF Regulation, which mainly contains provisions on the **material actions of OLAF** and the national **authorities concerned**.

1. Article 9 (Procedural guarantees)

[…] 3. As soon as an investigation reveals that an official, other servant, member of an institution or body, head of office or agency, or staff member may be a person concerned, that official, other servant, member of an institution or body, head of office or agency, or staff member shall be informed to that effect, provided that this does not prejudice the conduct of the investigation or of any investigative proceedings *falling within the remit of a national judicial authority.*
4. […] In duly justified cases where necessary to preserve the confidentiality of the investigation or an ongoing or future criminal investigation by the EPPO or a national judicial authority, the Director-General may, where appropriate after consulting the EPPO or *the national judicial authority concerned*, decide to defer the fulfilment of the obligation to invite the person concerned to comment. […]

a) Art. 9 para 3 (remit of a national judicial authority)

The concept of **judicial authority** has been part of ECJ jurisprudence in the past.[296] If this term would be understood in its widest possible means it would encompass as well the Office of Public Administration and Justice, which is competent for the Probation Service in Hungary[297]. But this is not intended by the OLAF Regulation. The Regulation Wording is clear enough. It refers to "the investigation or of any investigative proceedings falling *within the remit of* a *national judicial authority*". Thus the question must be: Who is a national judicial authority with a competence to conduct investigations or proceed to opean an investigation? **1**

Further distinguished can be the administrative area e.g. the tax and customs area, which is related to Budget Spending and Revenue to the Budget as well as the criminal law area, which has several judicial authorities that relate to investigations. **2**

The following Hungarian Authorities can be listed: **3**

Administrative Area

- Nemzeti Adó- és Vámhivatal – NAV = ompetent for tax and customs area (at the same time).
- Clerk of the municipalities = Local tax authorities.

[296] See Zoltán 2019, pp. 11 et seq.
[297] See https://www.kormanyhivatal.hu/hu/szakigazgatasi-szervek/igazsagugyi-szolgalat. Accessed 31 December 2024.

- In the area of subsidy related grants the Directorate-General for Auditing European Grants (Directorate-General, EUTAF) is competent to investigate.[298] It can at least decide about measures and has a special remit to conduct very specific investigations in only one area.

Criminal Area

- Nemzeti Adó- és Vámhivatal – NAV = Directorate General of Crime (Teve utca headquarters)[299] supported by the MERKUR Deployment Unit (Criminal forces)
- Local NAV Criminal Departements supported by the MERKUR Deployment Unit (Criminal forces)[300]

b) Art. 9 para 4 – national judicial authorities

4 Any relation of the Regulation to the EPPO does not apply in Hungary. But see above → "Sources of Law" and read into the Working Agreement that the General Prosecutor of Hungary concluded with the EPPO.

5 A judicial authority concerned is thus an authority that has been previously informed (para 3) and is therefore identical to the enumeration above.

2. Article 10 (Confidentiality and data protection)

[…] 3. The institutions, bodies, offices or agencies concerned shall ensure that the confidentiality of the investigations conducted by the Office is respected, together with the legitimate rights of the persons concerned, and, where judicial proceedings have been initiated, that *all national rules applicable to such proceedings* have been adhered to. […]

a) National rules applicable to judicial proceedings in the MS

6 National rules, which are applicable to judicial proceedings in the MS are distinguishable by the area of inspection or investigation. Judicial investigations mainly relate to the procedurals Acts. Procedural Acts exist for different areas. The Administrative Area is regulated in general but more specific administrative areas, like the customs area are regulated by own Laws.

b) Specifications

7 The administrative area as explained above under Art. 3 OLAF Regulation will mainly concern the tax or the customs sector.

[298] See https://eutaf.kormany.hu/. And see the new Webpage: https://eutaf.hu/. Accessed 31 January 2025.
[299] See https://nav.gov.hu/bunugy/elerhetosegek. The NAV is located in Budapest. Accessed 31 January 2025.
[300] See https://nav.gov.hu/bunugy/elerhetosegek. The NAV local authorities are located thorughout the countryside. Accessed 31 January 2025.

If the general administrative procedure is concerned the 2016 CL. Law on the general administrative procedure will apply. This law includes rules for persons concerned, e.g.: **8**

Section 5 [Principles relating to the customer] **9**
(1) The client may make a statement or comment at any time during the procedure.
(2) The authority ensures
a) the customer, furthermore
b) the witness, the official witness, the expert, the interpreter, the owner of the object of inspection and the client's representative (hereafter together: other participant in the procedure)
for them to know their rights and obligations and promotes the exercise of customer rights.

Section 7 [The official case]
(1) The authority shall apply the provisions of this law in the course of its proceedings in the administrative official case (hereinafter referred to as: case) and during the official inspection.
(2) In the application of this law, a case is one in the course of which the authority determines the client's right or obligation, resolves a legal dispute, establishes a violation of the law, verifies or keeps a record of a fact, condition, data (hereinafter collectively referred to as: data), or its decision concerning these validates.

Section 8 [Relation between general and special procedural rules]
(1) The scope of this Act *does not extend*
a) for the infringement procedure,
b) the election procedure, the initiation of the referendum and the referendum procedure,
c) for the tax and customs administration procedure,

13. Data management
Section 27 [Rules of data management]
(1) The authority manages the natural personal identification data necessary for the identification of the client and other participants in the procedure and the personal data specified in the law governing the type of case, and – unless the law provides otherwise – other personal data essential for the effective conduct of the procedure.
(2) The authority shall ensure that secrets protected by law and other data protected by law (hereafter collectively: protected data) are not disclosed or come to the knowledge of an unauthorized person, and that the protection of these protected data as defined by law also applies to the authority's proceedings be insured.
(3) In the course of its procedure, in order to carry out the procedure, the authority shall – in the manner and scope defined by law – handle the protected data that are related to its procedure, and the handling of which is necessary for the successful conduct of the procedure.

17. Access to the documents of the procedure
Section 33 [The right to inspect documents]
(1) The client may inspect the document created during the procedure at any stage of the procedure and after its completion.
(2) The witness may inspect the document containing his testimony, and the owner of the object of inspection may inspect the document prepared from the inspection.
(3) A third party may access a document containing personal data or protected data if it proves that it is necessary to assert the right to know the data or to fulfil an obligation based on legislation, a court or official decision.
(4) During document inspection, the person entitled to it may make a copy, an extract, or – against the reimbursement of expenses specified in a government decree – request a copy, which the authority authenticates upon request.
(5) If the law does not limit or exclude the publicity of the decision, after the end of the procedure, anyone can see the final decision that does not contain personal data and protected data, as well as the order annulling the first-instance decision and instructing the authority that made the first-instance decision to start a new procedure without restriction.
(6) In certain types of cases, the law may determine additional conditions for document inspection and the range of persons entitled to document inspection based on paragraph (3).

Section 34 [Limitations of the right to inspect documents]
(1) It is not possible to inspect the draft decision.
(2) A document or a part of a document from which a conclusion can be drawn regarding some protected data or personal data, the conditions for the disclosure of which are not defined by law, may not be disclosed, unless the disclosure of the data – excluding classified data – its absence would prevent the person entitled to inspect the documents from exercising his rights provided for in this Act.
(3) Based on the request, the authority provides document inspection – even after the procedure has been completed – or rejects it in an order.

10 Art. 4 OLAF Regulation might as well stipulate the importance of the Hungarian Civil Servant Act, the Anti-Corruption Legislation or the EU Parliamentarians Law. National rules are less frequently cited in matters of Art 4 OLAF Regulation because they relate to typical EU-internal investigations and only partly relate to national law.

3. Article 11 (Investigation report)

[…] 2. In drawing up the reports and recommendations referred to in paragraph 1, account shall be taken of the relevant provisions of Union law and, in so far as it is applicable, *of the national law of the Member State concerned*.
Reports drawn up on the basis of the first subparagraph, together with all evidence in support and annexed thereto, shall constitute admissible evidence:
(a) in judicial proceedings of a non-criminal nature before national courts and in administrative proceedings in the Member States;
(b) in *criminal proceedings of the Member State* in which their use proves necessary in the *same way and under the same conditions* as administrative reports drawn up by *national administrative inspectors* and shall be subject to the *same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors* and shall have the same evidentiary value as such reports;
(c) in judicial proceedings before the CJEU and in administrative proceedings in the institutions, bodies, offices and agencies.
Member States shall notify to the Office *any rules of national law relevant* for the purposes of point (b) of the second subparagraph.
With regard to point (b) of the second subparagraph, Member States shall, upon request of the Office, send to the Office the *final decision of the national courts* once the *relevant judicial proceedings* have been finally *determined* and the final court decision has become *public*.
The power of the CJEU and national courts and competent bodies *in administrative and criminal proceedings to freely assess the evidential value* of the reports drawn up by the Office shall not be affected by this Regulation. […]
3. Reports and recommendations drawn up following an external investigation and any relevant related documents shall be sent to the *competent authorities of the Member States* concerned in accordance with the rules relating to external investigations and, if necessary, to the institution, body, office or agency concerned. The competent authorities of the Member State concerned and, if applicable, the institution, body, office or agency shall take such action as the results of the external investigation warrant and shall report thereon to the Office within a timelimit laid down in the recommendations accompanying the report and, in addition, at the request of the Office. Member States may notify to the Office the relevant national authorities competent to deal with such reports, recommendations and documents.

Above in the presentation section on the investigations (see → D. I. b. bb. The Start of Criminal investigations), we presented a **case from a database analysis**, which analyses a judgment as to the extent to which the investigative authorities in the criminal area rely on transnational evidence and evidence from EU authorities in order to convincingly prove, for example, budget fraud, so that a court decision can be reached. **1**

2 If one takes the perspective of the investigative authorities, then it becomes apparent that the **collection of evidence** is sometimes the most important thing – on the one hand, the objectivity of the investigation must be maintained and both incriminating and exculpatory evidence must be promoted; on the other hand, the investigative authority is also forced to take (early) action(s) due to efficiency regulations and the particular importance when fraud to the detriment of the Union budget is at stake. Art. 11 OLAF Regulation is therefore also of particular importance in Hungarian courts and various authorities, which is why it is worth checking national law.

3 The following table presents an overview of the relevant national law in relation to the wording of Art. 11 OLAF Regulation:

4 *Sources & national sections 2: Art. 11 OLAF Regulation*

Para 2	As **reports of OLAF** shall include the information obtained during e.g. external investigations in the MS concerned, OLAF will have to rely on the submission of Reports by the competent national authorities frequently. The relevant national Law, such as · Law CLII from 2017, the Customs Law · 2016 Law CL.to the general administrative procedure · Law XLIV on the Directorate-General for the Examination of European Grants · […] Contain provisions on the issuing of a report, an investigation transaction or a protocol of the actions taken. OLAF will ask for these kind of protocols and will need to translate them eventually Another example for such a provision is s. 16 of the law XLIV of 2022 on the Directorate-General for Auditing European Grants and on the amendment of certain laws adopted at the request of the European Commission in order to successfully conclude the conditionality procedure: Section 16[301] (1) An audit report is drawn up on the audits, including findings, conclusions and recommendations if necessary, the draft of which

[301] 2022. évi XLIV. Törvény az Európai Támogatásokat Auditáló Főigazgatóságról és a kondicionalitási eljárás eredményes lezárása érdekében az Európai Bizottság kérésére elfogadott egyes törvények módosításáról
§ 16 (1) Az ellenőrzésekről – szükség esetén megállapításokat, következtetéseket és javaslatokat is tartalmazó – ellenőrzési jelentés készül, amelynek tervezetét a Főigazgatóság megküldi az ellenőrzött szervezet vezetőjének, továbbá annak, akire vonatkozóan a jelentéstervezet megállapítást vagy javaslatot tartalmaz (e § alkalmazásában a továbbiakban együtt: érintett). Több ellenőrzött szervezetet érintő ellenőrzés esetén a Főigazgatóság a tervezetnek csak a vonatkozó részét küldi meg az egyes szervezeteknek.
(2) A jelentéstervezetnek tartalmaznia kell a záradékot, amely szerint az érintettek kötelesek észrevételeiket a jelentéstervezet kézhezvételétől számított tizenöt – rendszerellenőrzés esetén huszonkét – napon belül megküldeni a Főigazgatóság részére. A határidőt követően beérkezett észrevételeket a Főigazgatóság nem köteles figyelembe venni, amire a záradékban fel kell hívni az érintett figyelmét. Elektronikus formában megküldött jelentéstervezet esetében a kézhezvétel dátuma a kézbesítési visszaigazolás időpontja.

	is sent by the Directorate General to the head of the audited organization, as well as to the person for whom the draft report contains findings or recommendations (for the purposes of this section, hereinafter together: affected). In the event of an audit involving several audited organizations, the Directorate General sends only the relevant part of the draft to the individual organizations. (2) The draft report must contain the clause according to which the parties concerned are obliged to send their comments to the Directorate-General within fifteen – twenty-two days in the case of a system audit – of receiving the draft report. The Directorate General is not obliged to take into account comments received after the deadline, which must be brought to the attention of the person concerned in the clause. In the case of a draft report sent in electronic form, the date of receipt is the date of the delivery confirmation. (3) If the data subject disputes the finding, conclusion or proposal concerning him, a meeting may be held, and a meeting must be held in the case of a system audit. (4) The head of the investigation decides on the acceptance or rejection of the comment, on which, in the event of a discussion, he informs the parties concerned within eight days of the discussion, or, in the absence of a discussion, of the receipt of the comments, and gives the reasons for the unaccepted comments. (5) In accordance with the accepted comments, the investigator amends the report. (6) The inspection report will be closed after the procedure specified in paragraphs (1)–(5), and the report will be sent by the Director General of the Directorate General to the parties concerned.
Para 2 (a)	The General Administrative Law 2016 provides for rules on witness testimonies and evidence gathered thorugh this method: **33. Witness** **Section 66** **[General Witness Rules]** (1) The person summoned as a witness is – with the exceptions specified in this law – obliged to testify.

(3) Ha az érintett a rá vonatkozó megállapítást, következtetést vagy javaslatot vitatja, megbeszélés tartható, rendszerellenőrzés esetén megbeszélést kell tartani.
(4) Az észrevétel elfogadásáról vagy elutasításáról a vizsgálatvezető dönt, amelyről megbeszélés esetén a megbeszéléstől, megbeszélés hiányában az észrevételek beérkezésétől számított nyolc napon belül az érintetteknek tájékoztatást ad, és az el nem fogadott észrevételeket indokolja.
(5) Az elfogadott észrevételeknek megfelelően a vizsgálatvezető a jelentést módosítja.
(6) Az ellenőrzési jelentés az (1)–(5) bekezdésben meghatározott eljárást követően lezárásra kerül, a jelentést a Főigazgatóság főigazgatója megküldi az érintetteknek.

(2) He may not be questioned as a witness
a) the person from whom a confession that can be used as evidence is not expected,
b) the person who has not been exempted from the secrecy of a fact considered as protected data.
(3) The witness may refuse to testify if
a) each customer relative (hereinafter: relative),
b) he would accuse himself or a relative of a criminal offense with his testimony,
c) a media content service provider within the meaning of the Act on Freedom of the Press and the Basic Rules for Media Content (hereinafter: media content service provider) or a person who has an employment or other legal relationship with him – even after the legal relationship has ended – and with his statement of the media content – would reveal the identity of the information provider within the scope of the service provider activity, or
d) a person enjoying diplomatic immunity.

Section 67
[examination of witnesses]
(1) At the beginning of the questioning, the authority establishes the identity of the witness. The authority charges the witness to state his relationship with the principals and whether he is biased, while warning him of his rights and duties and the legal consequences of giving false testimony.
(2) A witness who has not yet been examined may not attend the examination of the client, other witnesses and the expert.
(3) The interrogation regulations shall also apply to the interrogation if the authority interrogates the witness outside of the interrogation.
(4) The client and other parties to the proceedings may not be present at the hearing of witnesses if the witness is testifying about protected data or if the confidentiality of the natural person identification data and the place of residence of the witness has been ordered.
(5) The authority may permit the witness to testify in writing after or instead of the examination.
(6) If the witness testifies in writing without or after a hearing, the written testimony must show that the witness made the testimony with knowledge of the obstacles to testimony and the consequences of false testimony. At the same time as the written testimony is approved, the authority warns the witness and explains the obstacles to testifying and the consequences of false testimony.

	35. Expert **Article 71** **[Rules for Appointing an Expert]**[302] (1) An expert shall be heard or an expert opinion shall be requested – with a deadline of at least fifteen days – if special expertise is required to establish a significant fact or other circumstance and the acting authority does not have the relevant specialist knowledge. (2) An expert will not be assigned if the expert opinion of a specialist authority is to be obtained for the same matter. (3) With the exclusion of the expert, the provisions of Section 23 shall apply accordingly.
Para 2 (b)	OLAF Reports shall be valuable as evidence in criminal proceedings in Hungary (see → Annex 1). This provision is highly important as Hungary is not part of the EPPO but OLAF may discover heavy financial irregularities and can then present their evidence as evidence for a possible criminal trial by Hungarian national prosecution offices. The rules on evidence and the relevance of reports in criminal proceedings is regulated by the Hungarian Criminal Procedure Code.
Para 2 (c)	The Law from 2016 on the General Administrative Procedure provides for special rules: **39. Presentation of evidence to the client** **Section 76** **[Presentation of the evidence to the client]** If the authority has conducted an evidentiary procedure in the case, during which the authority did not ensure that the client gets to know all the evidence, after its completion, it will notify the client so that – taking into account the rules of access to documents – he can get to know the evidence and submit a motion for further evidence live.

Source: The authors.

Be aware that if a bailiff needs to obtain money on behalf of a national authority for OLAF, the rules obailiffes apply (9/2021. (X. 29.) SZTFH Regulation laying down detailed rules for the conduct of investigations to verify the administration, administration and conduct of self-employed bailiffs). **5**

[302] 71. § [A szakértő kirendelésére vonatkozó szabályok]
(1) Szakértőt kell meghallgatni vagy – legalább tizenöt napos határidő tűzésével – szakvéleményt kell kérni, ha az ügyben jelentős tény vagy egyéb körülmény megállapításához különleges szakértelem szükséges, és az eljáró hatóság nem rendelkezik megfelelő szakértelemmel.
(2) Nincs helye szakértő kirendelésének, ha ugyanabban a szakkérdésben szakhatóság állásfoglalását kell beszerezni.
(3) A szakértő kizárására a 23. § szabályait kell megfelelően alkalmazni.

4. Article 12 (Exchange of information between the Office and the competent authorities of the Member States)

1. Without prejudice to Articles 10 and 11 of this Regulation and to the provisions of Regulation (Euratom, EC) No 2185/96, the Office may transmit to the competent authorities of the Member States concerned information obtained in the course of external investigations in due time to enable them to take appropriate action *in accordance with their national law*. It may also transmit such information to the institution, body, office or agency concerned.
2. Without prejudice to Articles 10 and 11, the Director-General shall transmit to the *judicial authorities of the Member State concerned* information obtained by the Office, in the course of internal investigations, concerning facts which fall within the *jurisdiction of a national judicial authority*. […]
3. The *competent authorities of the Member State concerned* shall, unless *prevented by national law*, inform the Office without delay, and in any event within 12 months of receipt of the information transmitted to them in accordance with this Article, of the action taken on the basis of that information.
4. The Office may *provide evidence* in proceedings before national courts and tribunals *in conformity with national law* and the Staff Regulations. […]

a) Art. 12 para 1 OLAF Regulation (competent authorities & appropriate action in accordance with their national law)

1 The competent authorities for the application of Art. 12 para 1 OLAF Regulation in Hungary this compendium can again make reference to the same authorities listed above under the assessment for Art. 3 OLAF Regulation (→ External Investigations in Hungary). The irregularity or the nature of the fraud, which is suspected determines the competent national authority. Coming back to the example of a customs irregularity or fraud from above (see Art. 7 OLAF Regulation), the National Tax and Customs Administrations Office would be competent. This authority acts on the legal grounds of the 2017 CLII. Law on the implementation of EU customs law (2017. évi CLII. *Törvény az uniós vámjog végrehajtásáról*). If it receives the information from OLAF, it will carry out the appropriate action, which is limited to those legal action, which are stipulated by the Customs Law. Chapter XI. Of the Hungarian Customs Law includes the sanctions to Art. 42 of the Union's Customs Code. Chapter XX. (Art. 101 et seq.) of the same law regulates the Collection, payment and refund process.

The other authorities are: **2**

Term	Original Term	Tasks
Customs Area: National Tax and Customs Administrations Office	NAV – Nemzeti Adó- és Vámhivatal Revenue	
Tax Area: National Tax and Customs Administrations Office		
Hungarian Audit Office	Állami Számvevőszék	Audits
Ministries	minisztériumok Miniszterelnöki Kabinetiroda Agrárminisztérium Honvédelmi Minisztérium Pénzügyminisztérium Energiaügyi Minisztérium Építési és Közlekedési Minisztérium Gazdaságfejlesztési Minisztérium Külgazdasági és Külügyminisztérium Kulturális és Innovációs Minisztérium Belügyminisztérium Igazságügyi Minisztérium Miniszterelnöki Hivatal	Expenditure of EU Money and Audits (e.g. in the area of structural funds)
Minister responsible for the use of European Union funds		Regulated in 256/ 2021. (V. 18.)[303]

Source: The authors.

In the area of subsidies and structural funds, the Ministries and their Payment Services or tender offices play a very important role. The Hungarian Government has issued a Decree in 2022 for this area, which is important for the **exclusion from tenders**, from office or sanctions if OLAF requests such in a recommendation or report. The Decree is **3**

[303] 256/2021. (V. 18.) Korm. Rendelet a 2021–2027 programozási időszakban az egyes európai uniós alapokból származó támogatások felhasználásának rendjéről.

called: "**256/2021. (V. 18.) Government decree on the procedure for using subsidies from individual European Union funds in the 2021–2027 programming period**".[304]

b) Art. 12 para 2 OLAF Regulation (judicial authorities of the Member State concerned)

4 The judicial authorities are those, which can interact in a court proceeding or conclude judicial decisions like e.g. the prosecution offices, a Government Office, a disciplinary office.

c) Art. 12 para 3 OLAF Regulation (Information to the Office by competent authorities of the Member State concerned)

5 The authorities mentioned under para 1 and in the table above, will have to report to OLAF what they did and how this caused an action related to the report or recommendation that OLAF initially send. This ensures the follow-up and makes OLAF see the outcome of its investigations. The result might be a success for OLAF and a protection of the Union budget or a false recommendation and no action of the national authority, which would be severe if the fraud revealed proved to be a right assessement by OLAF.

d) Art. 12 para 4 OLAF Regulation (Providing evidence in court proceedings before national courts and tribunals in conformity with national law)

6 If the wording says the Office may provide evidence, it is made reference to the personnel of OLAF, thus the OLAF Investigation Unit and the special Units such as Forensic Experts etc. may, on behalf of the Office come to Hungary and provide evidence before a Hungarian Court (see above → B.II Institutions).

[304] Ibid.

5. Article 12a (Anti-fraud coordination services)

1. Each Member State shall, for the purposes of this Regulation, designate a service (the 'anti-fraud coordination service') to facilitate effective cooperation and exchange of information, including information of an operational nature, with the Office. Where appropriate, *in accordance with national law*, the anti-fraud coordination service may be regarded as a competent authority for the purposes of this Regulation. […]

a) General remarks

aa. Definition and History

Cooperation, coordination and facilitation are buzz words in anti-fraud literature.[305] Anti-fraud coordination services are known worldwide and exist in many international organisations and cooperate with nation states.[306] In the EU the term "AFCOS" has a *very special meaning* as it means the *Anti-fraud coordination services created on behalf of the European Anti-fraud Office* for the facilitation of interactions with the national Member States of the EU (see recitals below).[307] The obligation to designate these services runs and derives from primary Union law. Art. 325 TFEU (ex-Art. 280 TEC) requests the Union *and* the Member States to fight fraud (together). **1**

The history of these services, adapted to the financial and budgetary law sector and set-up in the Member States' internal justice and financial systems dates back to the early 2000s.[308] Historically, the coordinating bodies emerged primarily in the new Member States that were awaiting accession. **2**

The European Parliament has already in 2010 called for the AFCOS to be set up as independent bodies in the MS. Today one could not be further from this idea than ever, since the AFCOS are mostly subordinated deep in the structure of a Financial or Treasury Department/Ministry, Financial Inspections Services of the Treasury Department/Ministry, the Department of Commerce or the Ministry/Department of the Interior. **3**

[305] Kuhl 2019, pp. 160 et seq.; Wells 2014; Spink 2019; Saporta and Maraney 2022, FCPA 2012; ECA 2022, online: https://www.eca.europa.eu/Lists/ECADocuments/JOURNAL22_01/JOURNAL22_01.pdf; Malan 2022, pp. 135–139; focusing on the customs area van der Paal et al. 2019; de Vries 2022, pp. 401–463; House of Lords 2013, pp. 32 et seq.

[306] Bartsiotas and Achamkulangare 2016; See World Customs Organization, http://www.wcoomd.org/en/about-us/partners/international_organizations.aspx; UNDOC, https://www.unodc.org/unodc/en/corruption/COSP/session9-resolutions.html, docusing on the designation of anti-corruption bodies. They exist even on national level and are especially common in federal state systems, see Austria, which was special "*Betrugsbekämpfungskoordinator:innen*": https://www.bmf.gv.at/en/topics/combating-fraud/anti-fraud-units/anti-fraud-coordinators.html: "In each office there is an Anti-Fraud Coordinator (AFC; in German: *Betrugsbekämpfungskoordinator*, BBKO) for the individual sectors and regional customs units. They are members of the management and communicate in their function at management level and with each other. The AFC is the point of contact for all anti-fraud matters at the local level, within the department for other organisational units, as well as externally for institutions and public authorities. They also act as an information hub to the outside world, for example when it comes to external information exchange or cooperation with external institutions and authorities." (links Accessed 31 December 2024).

[307] Kuhl 2019, p. 164.

[308] Quirke 2015, pp. 236 et seq.

The simplicity of the coordination from within a ministry and the size of the administrative apparatus certainly speak in favour of this, but the interconnectedness is also problematic from the point of view of efficiency:

> "Friday 24 April 2009 Protection of the Communities' financial interests and the fight against fraud Annual Report 2007 (2008/2242(INI)) 2010/C 184 E/14 The European Parliament"
> 68. points out that the Anti-Fraud Coordination Units (AFCOS) set up for OLAF in the Member States that joined the European Union after 2004 are very important sources of information and contact points for OLAF; points out, however, that the functional added value of these offices (in particular in terms of reporting irregularities to the Commission) is minimal as long as they are not independent from national administrations; therefore calls on the Commission to submit a proposal to Parliament's competent committee on how the work of these offices could be made more useful and considers it necessary to improve cooperation with the candidate countries"[309]

4 At least there is legal and technical oversight of the areas of administration in most states and nowadays the AFCOS are implemented at the highest level.[310]

5 However, the existing Member States are also aware of weaknesses in the fight against fraud. Only since 2010 and in the last decade has more attention been paid to these coordination points. They have become a *sine qua non* in the EU's fight against fraud and it seems that they are becoming more and more the "eyes and ears" of OLAF in the Member States. They only have their own investigative skills, which would make them an "extended arm" of OLAF in the member states, if at all, e.g. in Bulgaria or Italy. On the other hand, in Germany and France, they are more active in the background and do not appear too clearly. Activity reports may also have to be requested by the Commission, i.e. the responsible departments of OLAF.

bb. Legislative developments

6 The Commission has evaluated the impact of the AFCOS in the past decade.[311] Recent changes at the beginning of the 2020s have enlarged the competences of the AFCOS. These are now even allowed to cooperate with each other and not only with OLAF in

[309] See OJ, 8.7.2010, CE 184/72.
[310] Byrne 2018, p. 13.
[311] Commission Staff Working Document Evaluation of the application of Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 Accompanying the document Commission report to the European Parliament and the Council., pp. 3, 12, 72.
The Commission document was accompanied by a Report (called ICF Report 2017), which reesulted from an external study: European Commission, European Anti-Fraud Office, Evaluation of the application of Regulation No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF): final report, Publications Office, 2017, https://data.europa.eu/doi/10.2784/281658. Accessed 31 December 2024.

Brussels alone, which was the case prior to the amendments of the Regulation (EU) 2020/2223.

The recent changes describe the role of the AFCOS in the recitals. Thus by reading them the task and role of these bodies becomes vivid: **7**

(23) The Office is able, under Regulation (EU, Euratom) No 883/2013, to enter into administrative arrangements with *competent authorities of Member States*, such as anti-fraud coordination services, and institutions, bodies, offices and agencies, in order to specify the arrangements for their cooperation under that Regulation, in particular *concerning the transmission of information, the conduct of investigations and any follow-up action*.
(30) Due to the large diversity of national institutional frameworks, Member States should, on the basis of the principle of sincere cooperation, *have the possibility to notify to the Office the authorities that are competent to take actions upon recommendations of the Office*, as well as the authorities that need to be informed, such as for financial, statistical or monitoring purposes, for the performance of their relevant duties. Such authorities *may include national anti-fraud coordination services*. In accordance with the settled case-law of the CJEU, the Office recommendations included in its reports have no binding legal effects on such authorities of Member States or on institutions, bodies, offices and agencies.
(37) The anti-fraud coordination services of Member States were introduced by Regulation (EU, Euratom) No 883/2013 to facilitate an effective cooperation and exchange of information, including information of an operational nature, between the Office and Member States. The Commission evaluation report concluded that they have contributed positively to the work of the Office. The Commission evaluation report also identified the *need to further clarify the role of those anti-fraud coordination services* in order to ensure that the Office is provided with the necessary assistance to ensure that its investigations are effective, while leaving the organisation and powers of the anti-fraud coordination services to each Member State. In that regard, the anti-fraud coordination services should be able to provide or coordinate the *necessary assistance* to the Office *to carry out its tasks effectively, before, during or at the end of an external or internal investigation*.
(40) It should be possible for the anti-fraud coordination services in the context of coordination activities to provide assistance to the Office, as well as for the anti-fraud coordination services *to cooperate among themselves*, in order to further reinforce the available mechanisms for cooperation in the fight against fraud.

cc. Visualisation of old (prior to 2020) vs. new (since 2020) cooperation and role of the AFCOS

Figure 10: Visualisation of the old cooperation by virtue of Regulation No. 883/2013

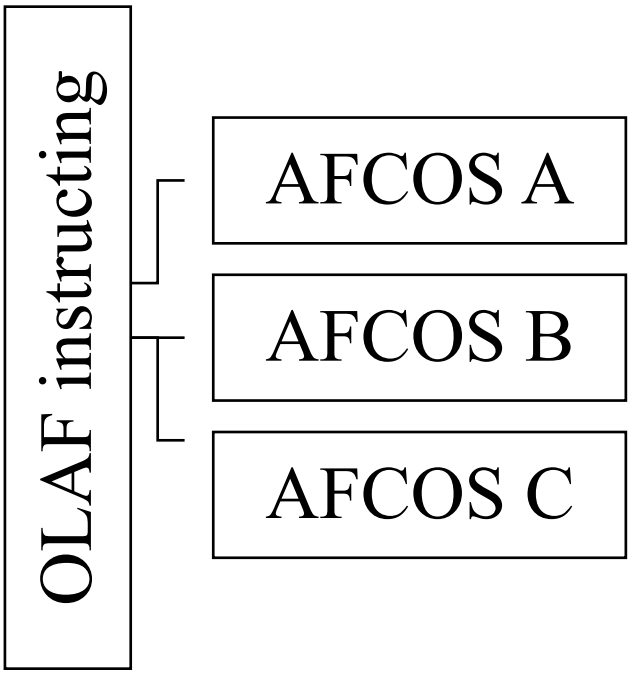
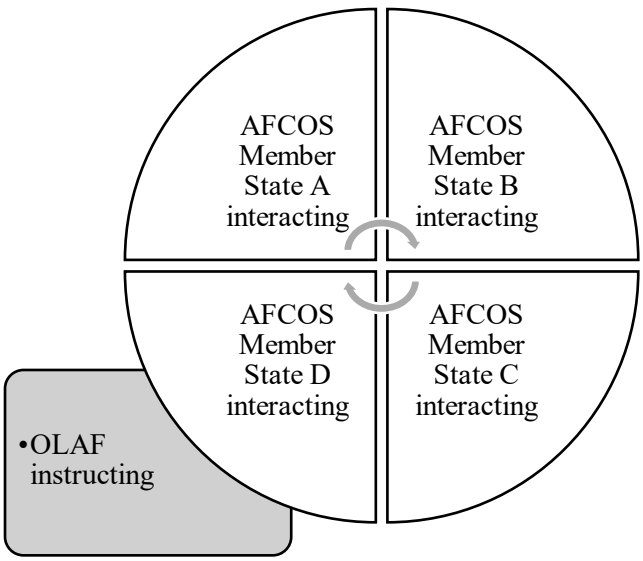


Figure 11: Visualisation of the new cooperation by virtue of Regulation No. 883/2013 (as amended 2020/2223)

8



b) A closer look at the relevant AFCOS in the present Member State

The national AFCOS is situated within the structure of the national tax and customs body (NVA).[312] 9

c) The Self-Presentation of the Hungarian AFCOS on its Website

The self-presentation on the website of the AFCOS in Hungary has the following outlook and wording: 10

National Tax and Customs Administration Central Management
OLAF Coordination Office
Address:
1051 Budapest, Sas u. 23.
Email:ki.olaf_ki@nav.gov.hu
Phone number: +36 (1) 373-1753

Filing a public interest report or complaint falling within the competence of NAV
https://nav.gov.hu/ugyfeliranytu/keressen_minket/kozerdeku_bejelentes_panasz.

Reporting misuse of funds from the European Union
http://www.anti-lop.hu.

Report suspected fraud to OLAF
https://ec.europa.eu/anti-fraud/contacts/fraud-reporting-form_hu.

"The OLAF Coordination Office (hereinafter: Office) within the Central Management of the National Tax and Customs Administrations Office acts independently and independently, based on the provisions defined by separate legislation, in cooperation with the European Anti-Fraud Office (hereinafter: OLAF).
The Office does not have official authority or independent legal personality, and in the course of carrying out its tasks – similar to OLAF – it acts independently, without influence.

In order to carry out its tasks related to the protection of the financial interests of the European Union, it maintains direct contact with OLAF, the anti-fraud services of the member states, and the relevant domestic institutions, and also ensures cooperation between OLAF and the relevant Hungarian organizations and authorities, and facilitates the flow of information in the field among its domestic organizations. 11

The Office participates in the coordination of the domestic implementation of legal, administrative and operational obligations related to the protection of the financial interests 12

[312] See https://nav.gov.hu/olaf/koordinacios_iroda. Accessed 31 December 2024.

of the European Union – and in this context the national budget – with due regard to the AFCOS concept developed by OLAF in 2002 and supplemented in 2013.

13 The Office of the XXIX of 2004 among its basic tasks defined by law :

- facilitates the conduct of investigations carried out by OLAF in connection with the protection of the financial interests of the European Union,
- coordinates tasks arising during on-site inspections conducted by OLAF,
- forwards to OLAF the reports specified in Community sectoral legislation regarding irregularities detected during the use of EU budget support,
- participates as an invitee in the meetings of the monitoring committees of the programs implemented using the financial support provided by the European Union,
- only in connection with the case investigated by OLAF, for the purpose of reporting, it may only process personal or criminal personal data to the extent necessary for that purpose,
- forwards OLAF's inquiries in relation to individual investigations and requests for information ordered by OLAF within 15 days at the latest to the bodies affected by the inquiry,
- also provides assistance in the case of inquiries and reports of irregularity from investigated persons and organizations, as well as from persons and organizations not involved in the investigation, if, in their opinion, the procedure or omission of a body, organization or person harms or endangers the financial interests of the European Union, at the same time arranges for the forwarding of inquiries and reports to the competent administrative bodies,
- keeps a statistical record of irregularities affecting the financial interests of the European Union, which does not contain personal data,
- prepares an annual summary report for the minister responsible for tax policy on the irregularities defined in the relevant law that harm the financial interests of the European Union, as well as on OLAF's investigations related to Hungary.
- In addition to the above, the OLAF Coordination Office
- participates in the permanent and ad hoc professional working groups managed by OLAF, which affects its scope of activities, represents Hungary in the anti-fraud working group of the Council of the European Union, performs the related coordination and professional tasks;
- performs coordination and data reconciliation tasks related to OLAF's irregularity register;
- in order to ensure the proper fulfilment of the irregularity reporting obligation in the Member States, it holds/organizes trainings and professional events for the employees of the domestic institutional system, ensures the professional and coordination tasks necessary for the proper functioning of the domestic reporting structure,
- monitors the European Union and domestic legislative environment for the management of European Union funds, with particular regard to the regulation on

irregularity management, identifies the shortcomings of the irregularity management system, formulates the development directions for its area of expertise, and proposes amendments to the relevant legislation."[313]

[Article 12b–12d omitted]

6. Article 12e (The Office's support to the EPPO)

1. In the course of an investigation by the EPPO, and at the request of the EPPO in accordance with Article 101(3) of Regulation (EU) 2017/1939, the Office shall, in accordance with its mandate, support or complement the EPPO's activity, in particular by:
(a) providing information, analyses (including forensic analyses), expertise and operational support;
(b) facilitating coordination of specific actions of *the competent national administrative authorities* and bodies of the Union; […].

As Hungary is not part of the EPPO, it can only support national authorities operating for the EPPO under the Working Arrangement or a **mutual legal assisstanc request (**see above → Working Arrangement, IV. 2. c). There might be new possibilities in the future if the European Council presents a new legal framework for the communication with the EPPO.

[Article 12f–g omitted]

[313] See https://nav.gov.hu/olaf/koordinacios_iroda. Accessed 31 December 2024.

7. Article 13 (Cooperation of the Office with Eurojust and Europol)

Article 13 (Cooperation of the Office with Eurojust and Europol)
1. […] Where this may support and strengthen coordination and cooperation between *national investigating and prosecuting authorities,* or where the Office has forwarded to the competent authorities of the Member States information giving grounds for suspecting the existence of fraud, corruption or any other illegal activity affecting the financial interests of the Union in the form of serious crime, it shall transmit relevant information to Eurojust, within the mandate of Eurojust. […]

Hungary has connection to Eurojust and Europol. The possible gateways of cooperation have been explore above (see above → B. VII. Hungarian Participation in Eurojust).

[Article 14–16 omitted]

8. Article 17 (Director-General)

4. The Director-General shall report regularly, and at least annually, to the European Parliament, to the Council, to the Commission and to the Court of Auditors on the findings of investigations carried out by the Office, the action taken and the problems encountered, whilst respecting the confidentiality of the investigations, the legitimate rights of the persons concerned and of informants, and, where appropriate*, national law applicable to judicial proceedings*. Those reports shall also include an assessment of the actions taken by the *competent authorities of Member States* and the institutions, bodies, offices and agencies, following reports and recommendations drawn up by the Office.
7. The Director-General shall put in place an internal advisory and control procedure, including a legality check, relating, inter alia, to the respect of procedural guarantees and fundamental rights of the persons concerned and *of the national law of the Member States concerned*, with particular reference to Article 11(2). The legality check shall be carried out by Office staff who are experts in law and investigative procedures. Their opinion shall be annexed to the final investigation report.

a) National law applicable to judicial proceedings

1 The applicable law to judicial proceedings concerning the General Administrative Law 2016: ss. 111 et seq. regulate on the appeals, judgements, complaints, decisions and any other legal action mentioned therein and directed against the actions of the investigative authorities.

b) Internal advisory and control procedure: Legality check involving national law

2 The **legality check** by the Office in relation to actions in Hungary or a report to a Hungarian authority will need to include an **assessement** of whether procedural guarantees

and fundamental rights of the persons concerned were respected and whether the national law of Hungary was followed.[314]

Particular reference shall be made to the laws that are relevant according to Art. 11 para 2 OLAF Regulation. **3**

The relevant national laws, such as **4**

- Law CLII from 2017, the Customs Law
- 2016 Law CL.to the general administrative procedure
- Law XLIV 2022 on the Directorate-General for the Examination of European Grants
- […] see above → III. Sources of law.

can be part of the legality check.

A **pre-assessement** by national responsible authorities might have to be talen into account. According to a new Government Decree 256/2021. (V. 18.) Government decree on the procedure for using subsidies from individual European Union funds in the 2021–2027 programming period.[315] **5**

Section 16[316] **The minister reponsible for Euopean Funds** **6**
a) examines notifications related to the **Charter of Fundamental Rights** of the European Union, affecting several programs or several governing authorities, based on a decision or report made in respect of a fundamental right,
b) makes a **proposal to the managing authority** in connection with the notification according to point a) and the information according to point b) of § 19, subsection (4).

9. Annex Further important Court Decisions by Hungarian Courts concerning the mandate of OLAF

Even if the OLAF officials carrying out these tasks are experts in law e.e. mostly former prosecutors or financial staff and thereby know investigative procedures, they will need to observe the national law, changes and politicial projects, relevant case law from the national area and the ECJ as potentially ECtHR case-law, which is applicable to actions of the national authorities – even if Art. 51 para 1 CFR does only apply to actions of Union organs. **1**

Further Important Court Decisions from Hungarian Courts concerning OLAF and its mandate can be listed here: **2**

[314] On legality checks in general see Supervisory Committee of OLAF 2015, pp. 1 et seq.
[315] 256/2021. (V. 18.) Korm. Rendelet a 2021-2027 programozási időszakban az egyes európai uniós alapokból származó támogatások felhasználásának rendjéről.
[316] 16. § A miniszter
a) megvizsgálja az Európai Unió Alapjogi Chartájával összefüggő, több programot vagy több irányító hatóságot érintő, valamely alapvető jog tekintetében meghozott határozaton vagy jelentésen alapuló bejelentéseket,
b) javaslatot tesz az irányító hatóság részére az a) pont szerinti bejelentéssel és a 19. § (4) bekezdés b) pontja szerinti tájékoztatással összefüggésben.

⚖ Curia[317] (reviewing Metropolitan Administrative Court of Budapest) Case No. Kfv.35223/2019/4 Curia Administrative Law 2020 [OLAF Report, Commission

of the European Union, Ex officio investigation, Import investigation, Central Office of the NAV, Payment obligation].

⚖ Curia (reviewing The Court of Appeal of the Salgótarján Administrative and Labour Court (Case C-51/10) Case No: Kfv.V.35.299/2016/7 [judicial review of an administrative decision in a customs matter].

⚖ Curia (personal details and dacts unknown) Case No. Kfv.35651/2016/8 ["Final reports of the European Anti-Fraud Office (OLAF) can be taken into account as evidence in the same way as administrative reports of Member State authorities. However, in administrative proceedings using an OLAF report, the legal status of the client does not change: the client's rights are preserved and procedural guarantees must apply."].

⚖ Curia (reviewing Miskolci Tribunal 12 November 2020 No. 101.K.700.171/2020/14) Case No. Kfv.35363/2022/6 [I. If the decision of the customs authority does not contain the data taken into account for calculating the customs value, the order of calculation and the data used were not verifiable by the plaintiff, thereby violating the general requirement imposed on administrative decisions in Section 66(2)(ea) of the Customs Act that the established facts and the evidence accepted as the basis thereof must be stated in the justification. II. Databases to be used in the preparation of the customs value in accordance with Article 30(2)(a) and (b) of the Customs Code. III. Determination of the time interval applicable to goods exported "at the same or nearly the same time"].

⚖ Tolna County Court of Szekszárd, Case No. B.133/2009/44, Decision of 26 January 2011 [criminal proceedings, closing of a case due to lack of evidence, OLAF did not initiate investigations into fraud].

⚖ Metropolitan Court of Budapest, Case No. .627/2017/83 [documentary evidence against statements, OLAF inspections and their findings, witness statements; requesting and receiving. The court replied in the affirmative, in line with the OLAF investigation ; actual subcontractor was different and neither OLAF, nor the company1, nor the NGM made any comment ; they complied with the tender notice. He criticised the fact that OLAF and company 1 had come to check with a preconception; in his view, it had been triggered by an unfounded and unprofessional OLAF investigation].

[317] Be aware that the so-called *Kúria* (in latinized English: Curia) of Hungary, which is officially seated in Budapest, is the highest judicial forum. It deals with administrative, civil, criminal, economic an abour matters, except for issues within the competence of the Constitutional Court of Hungary.

Metropolitan Court of Budapest, Case No. K.703802/2021/10, administrative, Unique identifier: 1-KJ-2021-365 [OLAF investigated fraudulent funding in an **EU fisheries project**. The court ruled the beneficiary created artificial conditions to obtain funds, violating regulations. €211M in support was reclaimed. OLAF's investigation also revealed that the amount of the invoices issued by the applicant to TTK Kft. […] was significantly higher than the costs actually incurred by the applicant. OLAF's investigation revealed that the applicant had overstated the total costs of all the work it had subcontracted by more than 95%."].

Administrative and Labor Court of Szeged, Cae No. 10.K.27.522/2015/13, Unique identifier 6/6-KJ-2016-17 [**agricultural funds case**, revocation, time-barred, procedural rights, Art. 11 para 2 OLAF Regulation, OLAF Report, typical problem, **lessons learned: fast action for revocation needed**: The case involved misuse of agricultural subsidies where the plaintiff received financial aid for rural development projects but was later accused of fraudulent use. The European Anti-Fraud Office (OLAF), under Regulation 883/2013/EU, investigated and recommended full repayment. The Hungarian Agricultural and Rural Development Agency (MVH) **revoked the subsidies based on OLAF's findings**. However, the plaintiff appealed, arguing the revocation was unlawful due to the expiration of the **five-year limitation period** under the 2007. évi XVII. törvény 57. Ss. para 1 and 3. The Szeged Administrative and Labour Court ruled in favor of the plaintiff, annulling the repayment order on the basis that the **revocation was time-barred**.

The court found that the plaintiff was denied the opportunity to fully review OLAF's report during the administrative process, violating procedural rights. The ruling referenced Regulation 883/2013/EU, Article 11 (2), which states that OLAF reports are admissible evidence but must comply with national legal standards. Additional legal references included Hungary's Fundamental Law (Alaptörvény XXIV. cikk (1)), which guarantees fair administrative procedures, as well as the General Administrative Procedure Act (Ket.) 50. S. and 72. para 1 (e), which impose requirements for fact-finding and well-reasoned decisions. The Civil Procedure Act (1952. évi III. törvény, Pp.) 339. S. 339 para 1 was also cited regarding legal errors that affect case outcomes.

Ultimately, the court ruled that the Hungarian authorities had exceeded the legal timeframe for revocation, making the decision unlawful. Consequently, the plaintiff was not required to repay the subsidies, and the revocation order was overturned.

Excerpt confiming the relevance of OLAF in Hungary: "[…] OLAF] conducted an investigation in accordance with Article 11 para 1 and 2 of Regulation (EU) No 883/2013 of the European Parliament and of the Council of 1073/1999/EC and

Council Regulation (EU) No 1074/1999/EURATOM and, in its final report No ..., found that there had been misuse of the aid and therefore recommended the recovery of 100% of the aid paid."

⚖ Metropolitan Court of Appeal, Case. No. 1.Bf.91/2023/11, Judgement of September 12, 2023, Unique identifier: FIT-BJ-2023-297 [Be aware that this case concerns a budget fraud where the accused unlawfully obtained HUF 373,051,684 in EU subsidies through misrepresentation. The Metropolitan Court of Appeal of Budapest, acting as a second-instance court reviewed and partially modified the Metropolitan Court's judgment (3.B.443/2020/58, see database). Initially, the first-instance court sentenced the defendant under Criminal Code s. 396 para 1 a) IV and para 4 a), imposing 1 year and 10 months of imprisonment (suspended for 3 years), a HUF 1,750,000 fine, and a 2-year ban from business leadership.

The court also ordered asset confiscation of HUF 313,228,900. The prosecution appealed, arguing for a harsher penalty, removal of the suspended sentence, and a fine against the involved company under 2001. évi CIV. törvény (Jszbt.) S. 2 para 1(a), s. 3(c), s. 6. The appeal court upheld most of the first-instance ruling but increased the asset confiscation to the full subsidy amount (HUF 373,051,684) and imposed a professional disqualification.

The ruling cited Code of Criminal Procedure (Be.) S. 590 (1)–(2), s. 592 para 2 (d), s. 593 para 3, §605 para 1, §606 para 2, confirming the fraudulent intent and misuse of EU funds by violating grant conditions (Act XVII of 2007, Section 4). The court also referenced OLAF's findings, determining that self-performance was prohibited from application submission to final payment (Point 3.1.7 of the grant announcement). The court dismissed the defense's argument that the legal environment was unclear, emphasizing the defendant's awareness of the fraudulent scheme. The final decision upheld the guilt of the accused, increased financial liability, and clarified the fraud's financial impact. **OLAF was involved** in the case by conducting an investigation into the fraudulent acquisition of HUF 373,051,684 in EU subsidies.

During the trial, **OLAF's report was accepted as important evidence**, acc. Article 11 para 2 of Regulation 883/2013/EU. The Metropolitan Court of Appeal **referenced OLAF's conclusions** in justifying its decision to uphold the fraud conviction and expand the asset confiscation to the full grant amount. OLAF launched its inquiry based on suspicions that the accused had violated grant conditions by engaging in self-performance, which was explicitly prohibited under Point 3.1.7 of the grant announcement.

The investigation confirmed that the accused, as both the beneficiary and a subcontractor, had misled authorities by concealing conflicts of interest, thus obtaining the full amount of the subsidy improperly.

The next decision shall again show that OLAF reports have a special impact on criminal proceedings: **3**

Table 12: Impact of an OLAF Report on a Criminal Process **4**

	**Case Studies: Budget fraud and Forgery established by an OLAF Report**

Summary of the Case
The criminal case involved a Hungarian national convicted of budgetary fraud and forgery related to agricultural subsidies, which was discovered with the help of OLAF. The defendant, as the managing director of a company, fraudulently applied for and received EU agricultural subsidies for land that was ineligible due to its military use.
Despite knowing the land was not legally usable for farming, the defendant submitted false claims for support in multiple years.

Legal Proceedings:
The Fővárosi Törvényszék (Budapest Metropolitan Court) adjudicated the case. The defendant was found guilty of budgetary fraud (Btk. 396. §) and continuous use of forged private documents (Btk. S. 345). The court sentenced the defendant to two years in prison, three years of public office disqualification, and five years of business leadership prohibition, along with a 500,000 HUF fine. Additionally, the court ordered the confiscation of 37.3 million HUF from the defendant and 13.96 million HUF from the company.

OLAF's Involvement:
OLAF conducted investigations into the fraudulent claims. The investigation confirmed that: The defendant manipulated subsidy applications by falsely presenting a military training ground as agricultural land and that the company did not engage in real farming activity on the claimed land. The fraudulent applications led to unjustified EU payments, harming the financial interests of the European Union.

In terms of legal reasoning the defendant knowingly misrepresented facts to obtain agricultural subsidies, violating both EU and national regulations. Thus, the court emphasized that the fraud was intentional and systematic, with multiple attempts to gain financial benefits. Finally, based on Hungarian Criminal Code, here s. 396 (see anove for the wording of budgetary fraud → Part B, C. I. 1. aa. (1)) and s. 345

(forgery), the court ruled the fraudulent subsidy claims invalid and enforced financial penalties.
Council Regulation 73/2009/EK, SAPS regulations was applied to determine that the claimed subsidies were unlawful. In the end the decision reaffirmed the necessity to protect EU financial interests and hold individuals accountable for subsidy fraud.

Our Comment to the Final Verdict:
The defendant was convicted and sentenced to imprisonment, financial penalties, and business restrictions.
The fraudulent subsidies were revoked, and misused funds were ordered to be repaid.
The ruling, which was based on Hungarian law shows the application of Union law and EU subsidy rules, and OLAF's findings, ensuring that EU financial interests were protected.

Important Excerpt from the Judgement:
"The court also rejected the defendant's statement that military use did not constitute an obstacle to agricultural use.

In this regard, the court established the facts of the judgment on the basis of the consistent and consistent statements of the inspectors from ..., the witnesses Person5, Person6, Person7 and Person8, as well as the witnesses of the shepherds Person12 and Person10, as well as the information from ... and the final report from OLAF. Accordingly, the area was not usable during the days affected by the military presence, and these days covered most of the year, so that agricultural use was excluded for a significant part of the year. This is also supported by the report of the on-site inspection."

This excerpt shows that Union courts can rely on the evidence gathered by OLAF inspectors equal to national evidence by witnesses for example (see above → Part D., Art. 11 on the explanations and relevance). This is an advantage and as long as Hungary is not part of the EPPO zone, the investigation and prosecution of PIF offences must continue with the help of national prosecutors that can at least establish evidence in front of national courts with the help of pieces of evidence gathered on the basis of Union law.

Source: Metropolitan Court, Case No. B.1553/2015/77 punitive decision, criminal law area, Decision from 2019, Unique identifier: 1-BJ-2019-136.

[Article 18–21]

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Index

This **Hungarian EPPO/OLAF volume** focuses on criminal and administrative investigations in Hungary. As Hungary is a non-participating Member State to the EPPO, the EPPO chapter of this book discusses the relations between the EPPO countries and the Hungarian Prosecution Offices under a Working Arrangement as well as the rules of the Hungarian Prosecution Offices when investigating EU fraud and financial crime offences. It covers the material collected, co-operation with the Hungarian judicial authorities, criminal investigations into PIF-offences and compliance with the EPPO-Regulation. This volume also deals with the impact of OLAF investigations in Hungary and their significance for the Hungarian criminal justice system. Prof Dr Krisztina Karsai has acted as the publication's national expert.

While written in English, the volume includes footnotes that reproduce the original Hungarian legislation in the local language. Easily navigable with the help of visual symbols, it is designed as a quick reference tool for academics, students, practitioners and other interested readers.

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