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Mr Michael McGrath  
Commissioner for Democracy,  
Justice, the Rule of Law and  
Consumer Protection

Reg. No.: EKAB-00115/02/2025

European Commission

Bruxelles/Brussels  
Rue de la Loi 200/Westsraat 200  
Belgium

Dear Mr McGrath,

The European Commission published the Commission Staff Working Document (hereinafter: Working Document) titled „*Country Chapter on the rule of law situation in Hungary*” accompanying the Communication titled „*2025 Rule of Law Report – The rule of law situation in the European Union*” on 8 July 2025. The Working Document also contains allegations related to the activity of the Public Procurement Authority of Hungary, considering which I am writing to inform you about the followings.

Dear Mr McGrath,

In the view of the Public Procurement Authority, **the statements of the Working Document concerning the activity of the Public Procurement Authority are unsubstantiated, lack public procurement expertise and knowledge, consequently the conclusions are utterly false, thus the Authority is unable to accept them. Furthermore, let me underline that the Authority decisively rejects the statements of the Working Document challenging the impartiality of the Public Procurement Authority and that of the Public Procurement Arbitration Board.**

In order to justify my statements above, I would like to draw your attention to the followings.

Primarily I would like to emphasize that in the view of the Authority, the credibility of the Working Document is put into question as its statements are based on the report issued by a non-governmental organisation, which entity does not deal with economic issues, like public procurement, but is rather focused on the legal protection of human rights.

It is striking upon reading the Working Document that the Commission – based on the allegations of the NGO referred to above – **highlighted two(!) procedures out of the almost 8000 effective public procurement procedures** conducted in Hungary in 2024 and rated the activity of the Authority based on this.

It is rather questionable in the opinion of the Authority how objective, factual and credible is such conclusion concerning the activity of the Authority. Moreover, the Commission did so by **not providing opportunity for the Authority to detail its professional standpoint in terms of the two public procurement procedures highlighted** by the NGO dealing with human rights and referred to in the Working Document, **neither did the Commission deem it necessary to provide such opportunity** for the Authority. None of questions sent beforehand by the Commission to the Authority referred to the cases, no related inquiry was submitted to the Authority in terms of the draft Working Document, moreover, the Authority was not invited to comment on the draft of the Working Document.

Considering the above, in the followings allow me to present our position in terms of the two cases referred to.

The Working Document states that *„The Public Procurement Authority failed to investigate the award of two public contracts from a contracting authority primarily owned by the same Government-affiliated businessman as the winner of the tenders.”*

**Dear Mr McGrath,**

The above allegation is **factually inaccurate**. The Public Procurement Authority launched and conducted detailed official investigation in the cases concerned based on the notification of public interest submitted by Átlátszó.hu platform and the Authority investigated the conflict of interest issues reported in the notification, during which investigation the Authority contacted all actors involved in the given public procurement procedures and requested detailed information on the issues investigated and also requested access to all documents of the public procurement procedures. The Authority reviewed and analysed the documents of the public procurement procedures in detail and concluded based on the investigation that the actors of the given public procurement procedures complied with the conflict of interest rules applicable for public procurement procedures, no irregularity was found based on the documents of the public procurement procedures. Upon closing the investigation, the Authority provided detailed information to the whistleblower, in which it presented the results of the investigation thoroughly. The Authority also published the information on the investigation on its homepage, in line with the suggestion of the Anti-Corruption Working Group operating within the framework of the Integrity Authority and in compliance with the provisions of the Anti-Corruption Strategy.<sup>1</sup>

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<sup>1</sup> Please refer to Case No.: KTF HEO-00049/2024  
(<https://www.kozbeszerzes.hu/adatbazisok/kozerdeku-bejelentesek-nyilvantartasa/>)

In the study of the NGO referred to by the Working Document, another concession procurement procedure is mentioned, in terms of which the following is stated: „*This is showcased (...) by the reluctance of the Public Procurement Authority from tackling the case of the 35-year concession of the major part of Hungarian waste management, which was awarded to oil giant MOL.*”

**Dear Mr McGrath,**

Although the allegation quoted is only included in the study, I would like to point out that again, this is **factually inaccurate**. Based on the notification of Transparency International Hungary, the Public Procurement Authority launched and conducted an official investigation in the case concerned, during which investigation it contacted all entities participating in the public procurement procedure in question and in the ensuing transactions and the Authority thoroughly reviewed all concerns expressed by the whistleblower. As the result of the investigation, it was concluded that a part of the conclusions of the whistleblower are mistaken and unfounded based on the free-of-charge, publicly available online registries, while the procedural acts mentioned in the other part comply with the public procurement provisions, thus the conclusions of the whistleblower are legally unjustified. Again, the Public Procurement Authority provided detailed information upon concluding the investigation, in which it specified the results for the whistleblower. Like in the previous case, the information on the investigation was published on the website.<sup>2</sup>

We cannot understand how the above presented facts could have gone unnoticed by the European Commission in terms of a document having key importance for the Commission, like the Working Document in question. Consequently, we feel doubtful to what extent the statements of the Working Document can be deemed objective, unbiased and impartial.

Naturally, should the Commission require, the Authority is ready to forward the documents presenting all relevant circumstances of the cases and the closing document sent to whistleblowers, containing the result of the investigation, as we would have done earlier upon receiving any related inquiry.

**Dear Mr McGrath,**

This year, like in the previous years, the Public Procurement Authority was ready to assist the European Commission, the Authority prepared detailed, professional answers for the questions posed by the European Commission during the preparation of the Working Document, which objective answers comply with public procurement legislation and are justified by such legislation.

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<sup>2</sup> Please refer to Case No.: SZEf-00129/2024 (<https://www.kozbeszerzes.hu/adatbazisok/kozerdeku-bejelentesek-nyilvantartasa/>)

Nevertheless, I find it regrettable that these answers were disregarded by the European Commission and when rating the activity of the Public Procurement Authority, it only relied on the view of an NGO lacking objectivity, impartiality and professionalism.

So the European Commission disregarded for example that since their establishment, that is **since 30 years** both the Public Procurement Authority and the Public Procurement Arbitration Board, which operates within the framework of the Authority, but professionally independently of it, **function objectively as entities subordinated directly to the National Assembly, independently of the all-time government**, and pursue their activities solely in compliance with the law. It is a guarantee of the impartiality that both the executives of the Public Procurement Authority and that of the Public Procurement Arbitration Board and also the public procurement commissioners proceeding in public procurement review cases are elected by the members of the Council operating within the Authority, the members of which Council are delegated by entities involved in public procurements, that is contracting authorities, tenderers and entities representing general interests, all in about one third ratio. Furthermore, an additional guarantee of the independence of the Authority and that of the Arbitration Board is the fact that the economic conditions of their operation is financed from payments made by contracting authorities and tenderers delegating the members of the Council and from the own incomes of the Authority, by minimal central budget support compared to other state bodies. Considering the above, the Public Procurement Authority and the Public Procurement Arbitration Board operate independently of the all-time government institutionally and from financial aspects as well.

In addition to the above, it has to be underlined that Article 179 (1) and (4) of Act CXLIII of 2015 on Public Procurements (hereinafter: PPA) specifically guarantee the organisational independence of the Public Procurement Arbitration Board, while Article 193 (12) of the PPA guarantees the independent decision making of the Public Procurement Arbitration Board and that of public procurement commissioners, basically laying down guarantees equalling judicial independence considering the quasi judiciary features of the Public Procurement Arbitration Board.

Let me draw your attention to the fact that the Public Procurement Arbitration Board carries out its work highly effectively and efficiently, also in the context of the EU. It has to be pointed out in terms of judicial review against its decisions that for years **less than 10% of the decisions** (which data is supported by relevant and real figures) **of the Arbitration Board were challenged at court by those concerned, where the court success rate of the Arbitration Board is over 90%, considering the substantial decisions of the court.** I would like note that contrary to this factual data, the Working Document refers to the result of a perceptual survey, during which in only 16 days, in a survey based on interviews conducted on the phone, EU based companies evaluated the judicial system of their country in general, from the

aspect of the independence of courts and judges. Thus, the questions posed were not directly aimed at the work of public procurement review bodies, but at the whole judiciary in general. Just one question (Q5\_1) was focused on perceptions related to public procurement review bodies (!). Therefore, the interviews used as a basis for the survey were not expressively conducted with companies participating in public procurement procedures and thus having actual experience with the work of public procurement review bodies, but rather with companies selected from various sectors of the economy, irrespective of their public procurement relatedness.

Moreover, in order to properly evaluate the activity of the Public Procurement Authority, let me point out the fact that for the sake of compliant public procurement procedures and to prevent incidental unlawful public contract amendments, within its notice control activity last year the Public Procurement Authority **controlled over 24 000 notices** concerning almost 8000 effective public procurement procedures, as a result of which the Authority **issued more than 26 000 requests for the supply of missing information, in which it requested the contracting authorities to correct more than 142 000 failures**, thus contributing to the compliance of Hungarian public procurements to a greater extent than any other entities.

Apart from the above, out of those entitled to initiate a review procedure ex officio, in 2024 the Public Procurement Authority **initiated the most, namely 218 review procedures, in total against 390 entities (contracting authorities and economic operators)**. The Authority also investigated all notifications of public interests submitted and published the result of the investigations, in line with the provisions of the above mentioned National Anti-Corruption Strategy.

Dear Mr McGrath,

As you might know, also the European Commission itself monitors the transparency, efficiency and effectiveness of public procurement systems of EU Member States each year, by considering several indicators. The contradiction in terms of the further, public procurement related part of Working Document is perplexing, namely that according to the **Single Market Scoreboard** – which is published by the European Commission – **Hungary, with outstanding performance, has been one of the most efficient Member State (the third as per the latest data) based on the 12 indicators measuring the public procurement performance of the Member States**; nevertheless, the European Commission has been highly critical of Hungarian public procurements in the Rule of Law Reports on Hungary each year. I think that the Commission should also consider its own data upon drafting the Working Document.

Please find attached the 2024 Annual Report of the Public Procurement Authority, accepted by the National Assembly, which presents the activities of the Public Procurement Authority and the Public Procurement Arbitration Board in detail, among others you can easily gain authentic information about the results concisely presented above. Additionally, the publication also contains the Authority's statistics on Hungarian public procurements for the year 2024, which since this year, has been prepared by applying a new statistical methodology, thus supporting the objective of the European Commission to enable equivalent and coordinated statistical data processing in all Member States.

Should you have any questions concerning the state of play of Hungarian public procurements or should you need any further information to clarify the statements of the Working Document, please feel free to contact the Public Procurement Authority, together with my colleagues, we are at your disposal either personally or in writing.

I would appreciate if despite to continuous negative experiences of the past years, real professional dialogue commenced between the Commission and the Public Procurement Authority, and the topics of the negotiations would latter really be those issues included in the Working Document.

I hereby inform you that the present letter with identical content has also been sent to Mr Gábor Zupkó, Head of Representation, Representation of the European Commission in Hungary.

Done at Budapest, 29 July 2025

Yours sincerely,



László Kovács, PhD  
President