

Act LIII of 2024

amending Act IX of 2021 on public interest asset management foundations performing public duty

Section 1 In Act IX of 2021 on public interest asset management foundations performing public duty (hereinafter “Act IX of 2021”), the following paragraph (4) shall be added to section 6:

“(4) Members of the board of trustees and the supervisory board of a foundation shall be subordinated only to the law and the provisions of the deed of foundation; they shall not be instructed in relation to their activities.”

Section 2 In Act IX of 2021, the following Chapter V/A shall be inserted:

“Chapter V/A

SPECIAL RULES ON FOUNDATIONS MAINTAINING A HIGHER EDUCATION INSTITUTION THAT USE EUROPEAN UNION FUNDS

Section 25/A (1) A foundation maintaining a higher education institution referred to in Subtitle A) of Annex 1 shall be eligible to access financial assistance originating, in part or in whole, from the European Union only if it complies with the requirements set out in this Chapter (hereinafter “benefiting foundation”).

(2) A legal person created in accordance with the Civil Code and established or maintained by a foundation maintaining a higher education institution referred to in Subtitle A) of Annex 1 shall be eligible to access financial assistance originating, in part or in whole, from the European Union only if it complies with the requirements set out in this Chapter.

Section 25/B (1) The term of office of a member of the board of trustees or the supervisory board of a benefiting foundation shall terminate upon the expiry of 6 years from the start of the term of office and the member may be re-elected or re-designated only once.

(2) The term of office of a member of the board of trustees or the supervisory board of a benefiting foundation designated or elected before the financial assistance under section 25/A (hereinafter “financial assistance”) was granted (hereinafter jointly the “existing member”) shall terminate not later than upon the expiry of 6 years after the benefiting foundation received the financial assistance.

(3) Where term of office terminates in accordance with paragraph (2), the existing member may be re-designated or re-elected only once, provided that he complies with the requirements set out in this Chapter.

Section 25/C (1) A person shall not be a member of the board of trustees or the supervisory board of a benefiting foundation if he holds any of the following positions:

- a) Member of the National Assembly,
- b) senior political executive within the meaning of Act CXXV of 2018 on government administration (hereinafter the “Government Administration Act”),
- c) government commissioner within the meaning of the Government Administration Act,
- d) ministerial commissioner within the meaning of the Government Administration Act,
- e) senior professional executive within the meaning of the Government Administration Act,
- f) professional executive within the meaning of the Government Administration Act,
- g) public official employed at an organ within the meaning of Act CVII of 2019 on special status organs and the legal status of persons employed by them (hereinafter the “Special Status Organs Act”),

or if he held any of the positions referred to in points a) to g) in the year preceding the start of the term of office of the member of the board of trustees or the supervisory board.

(2) A person shall not be the managing director of a legal person referred to in section 25/A (2) (hereinafter “benefiting legal person”) if he holds any of the following positions:

- a) Member of the National Assembly,
- b) senior political executive within the meaning of the Government Administration Act,
- c) government commissioner within the meaning of the Government Administration Act,
- d) ministerial commissioner within the meaning of the Government Administration Act,
- e) senior professional executive within the meaning of the Government Administration Act,
- f) professional executive within the meaning of the Government Administration Act,
- g) public official employed at an organ within the meaning of the Special Status Organs Act,

or if he held any of the positions referred to in points a) to d) in the year preceding the start of the term of office of the managing director.

(3) A member referred to in paragraph (1) and a managing director referred to in paragraph (2) (hereinafter jointly “officer”) shall not be the officer of another benefiting foundation or benefiting legal person (hereinafter jointly “benefiting entity”) insofar as holding these positions at the same time prevents or restricts the impartial, objective and unbiased discharge of his duties.

(4) In addition to the provisions of section 6 (4), an officer shall be a person who exhibits the independence, probity, impartiality and integrity required for holding that position.

(5) The State Audit Office shall verify compliance with the conflict of interest rules under this section.

(6) For each existing member, the State Audit Office shall verify compliance with the conflict of interest rules within 3 months after the benefiting foundation received the financial assistance.

Section 25/D (1) An officer, including the existing member being re-designated or re-elected under section 25/B (3), may only be designated or elected if before the start of the term of office, the board of trustees of the benefiting foundation, taking into account the position of the State Audit Office, concludes that he exhibits independence, probity, impartiality and integrity as required in section 25/C (4).

(2) An opinion of the State Audit Office under paragraph (1) may be requested by the officer of the benefiting entity concerned. The State Audit Office shall deliver its opinion within 15 days following receipt of the request.

Section 25/E (1) The officer shall make a declaration of assets covering the information and in the form set out in Annex 1 to Act XXXVI of 2012 on the National Assembly within thirty days from taking office or, for an existing member, from the date when the benefiting foundation received the financial assistance, and within thirty days following the termination of term of office.

(2) The declarations of assets referred to in paragraph (1) shall be retained by the asset auditor of the benefiting entity.

(3) Should an officer fail to make the declaration of assets, he shall not be allowed to exercise the rights arising from his office and shall not receive remuneration until he submits the declaration of assets.

(4) The Integrity Authority shall verify the declarations of assets made by the officers under paragraph (1) in accordance with Act XXVII of 2022 on the control of the use of European Union budget funds.”

Section 3 In Act IX of 2021, the following section 31/D shall be inserted:

Section 31/D (1) If a foundation maintaining a higher education institution referred to in Subtitle A) of Annex 1 or a legal person created in accordance with the Civil Code and established or maintained by such a foundation received financial assistance before the entry into force of Act LIII of 2024 amending Act IX of 2021 on public interest asset management foundations performing public duty (hereinafter the “Amending Act3”), its officers designated or elected before the entry into force of Amending Act3 shall be required to make a declaration of assets under section 25/E (1) within 30 days after the entry into force of Amending Act3.

(2) If a foundation maintaining a higher education institution referred to in Subtitle A) of Annex 1 or a legal person created in accordance with the Civil Code and established or maintained by such a foundation received financial assistance before the entry into force of Amending Act3, its officers designated or elected before the entry into force of Amending Act3 shall be required to eliminate any conflict of interest under section 25/C (1) to (3) within 30 days after the entry into force of Amending Act3.

(3) If a foundation maintaining a higher education institution referred to in Subtitle A) of Annex 1 or a legal person created in accordance with the Civil Code and established or maintained by such a foundation received financial assistance before the entry into force of Amending Act3, the State Audit Office shall, within 3 months after the entry into force of Amending Act3, scrutinise whether its officers designated or elected before the entry into force of Amending Act3 comply with the conflict of interest rules under section 25/C (1) to (4).

(4) If a foundation maintaining a higher education institution referred to in Subtitle A) of Annex 1 received financial assistance before the entry into force of Amending Act3, the term of office of the members of its board of trustees or supervisory board designated or elected before the entry into force of Amending Act3 shall terminate not later than upon the expiry of 6 years following the entry into force of Amending Act3.

(5) Where term of office terminates in accordance with paragraph (4), the member of the board of trustees or supervisory board designated or elected before the entry into force of Amending Act3 of the foundation maintaining a higher education institution referred to in Subtitle A) of Annex 1 that received financial assistance before the entry into force of Amending Act3 may be re-designated or re-elected only once, provided that he complies with the requirements set out in Chapter V/A.”

Section 4 In Act IX of 2021,

- a) in section 21 (4), the words “Annex 1” shall be replaced by “Subtitle A) of Annex 1”,
- b) in section 22 (1), the words “Annex 1” shall be replaced by “Subtitle A) of Annex 1”,
- c) in section 22 (2), the words “Annex 1” shall be replaced by “Subtitle A) of Annex 1”,
- d) in section 22 (4), the words “Annex 1” shall be replaced by “Subtitle A) of Annex 1”,
- e) in section 22 (5), the words “Annex 1” shall be replaced by “Subtitle A) of Annex 1”.

Section 5 (1) This Act shall enter into force on the date of the repeal of Article 2(2) of the Council Implementing Decision (EU) 2022/2506 of 15 December 2022 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary or of its amendment to lift the measure set out therein with regard to the foundations maintaining a higher education institution referred to in Subtitle A) of Annex 1 and the legal persons established or maintained by such foundations.

(2) The calendar day of the entry into force of this Act shall be determined by the minister responsible for European Union affairs in an individual decision published in the official gazette *Magyar Közlöny* immediately after it becomes known.

Section 6 Sections 1 to 4 qualify as cardinal on the basis of Article 38 (6) of the Fundamental Law.