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Council of Europe
DGI – Directorate General of Human Rights and Rule of Law
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Subject: NGO communication with regard to the execution of the judgment of the European Court of Human Rights in the *Kenedi v. Hungary* case (Application no. 31475/05, Judgment of 26 May 2009)

INTRODUCTION

The Hungarian Civil Liberties Union and the Hungarian Helsinki Committee hereby respectfully submit their observations under Rule 9(2) of the "Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements" regarding the execution of the judgment of the European Court of Human Rights in the *Kenedi v. Hungary* case (Application no. 31475/05, Judgment of 26 May 2009).

The **Hungarian Civil Liberties Union (HCLU)** is an independent watchdog organization that has been protecting civil liberties in Hungary since 1994. Its Political Freedoms Project focuses on the protection of freedom of political expression and access to public information, freedom of assembly and association, as well as voting rights and parliamentary privileges necessary for fair democratic representation and parliamentary pluralism. The HCLU has been active in strategic human rights litigation before the European Court of Human Rights. It has represented clients before the Court in landmark cases concerning, *inter alia,* Szurovecz v. Hungary (15428/16), Mándli and Others v. Hungary (63164/16), Magyar Jeti Zrt v Hungary (11257/16), Uj v Hungary (23954/10), Társaság a Szabadságjogokért v. Hungary (37374/05). The HCLU has thus accumulated considerable legal expertise in the right to freedom of expression and information.

The **Hungarian Helsinki Committee** (HHC) is an independent human rights watchdog organisation founded in 1989 in Hungary. The HHC focuses on defending the rule of law and a strong civil society in a shrinking democratic space; the right to seek asylum and access protection; the rights to be free from torture and inhuman treatment and the right to fairness in the criminal justice system. The HHC carries out monitoring, research, advocacy and litigation in its fields of expertise, contributes to monitoring Hungary's compliance with relevant UN, EU, Council of Europe, and OSCE human rights standards and cooperates with international human rights fora and mechanisms. Its activities around the rule of law in Hungary cover a wide range of issues, including the independence of the judiciary and the compliance of state authorities with domestic and European court decisions. In late 2021, the organisation published a comprehensive study on the latter topic, titled *"Non-Execution of Domestic and International Court Judgments in Hungary"*, which covers non-implementation of domestic court judgments in freedom of information cases as well.[1]

[1] The study is available here: https://helsinki.hu/en/wp-content/uploads/sites/2/2021/12/HHC_Non-Execution_of_Court_Judgments_2021.pdf. See in particular Chapters 1.1.1. and 1.1.4.

EXECUTIVE SUMMARY

The *Kenedi v. Hungary* case originated in a freedom of information lawsuit brought by the applicant against the Ministry of Interior because the ministry refused to grant him access to documents concerning the Hungarian secret services for the purpose of historical research, and then failed to comply with the domestic court judgment authorising him to access the documents. The Court ruled that the excessive length of the ensuing enforcement proceedings in respect of the judgment authorising the applicant's access to documents had violated his rights under Article 6(1) of the European Convention on Human Rights; concluded that the applicant's right to freedom of expression (Article 10 of the Convention) had been violated on account of the continued resistance of the authorities to grant the applicant access to the above documents; and that the lack of an effective remedy in this respect violated Article 13 in conjunction with Article 10 of the Convention.

The HCLU and the HHC are of the view that, as opposed to what is suggested by the Government in its Revised Action Report of 10 May 2022,[2] **the Hungarian Government has not taken the necessary general measures to prevent the occurrence of similar violations** in the future. The **non-execution of domestic court judgments by state authorities in freedom of information cases, along with the lack of effective enforcement of judgments in these cases remains a severe problem** in Hungary. This was recently confirmed also by the European Commission in the Hungary chapter of its 2022 Rule of Law Report, in which the Commission pointed out as an issue of concern that "[t]here are cases where state bodies refuse to execute decisions of the domestic courts; several of these concern access to documents".[3]

In the petitioners' view there are systemic causes behind the non-compliance with freedom of information judgments, such as the lack of effective and genuinely coercive enforcement tools. Criminal procedures launched for non-compliance with freedom of information judgments under the respective provisions of the Criminal Code rarely lead to indictments. Furthermore, the proceedings for enforcing court decisions suffer from deficiencies in general, reducing their efficiency and accessibility. Finally, in contrast to what is suggested by the Government in the Revised Action Report, the excessive length of enforcement proceedings and the lack of an effective remedy in that regard are not being addressed in the framework of implementing the judgments in the *Gazsó* group of cases.

1. EXAMPLES AND SYSTEMIC CAUSES OF NON-COMPLIANCE WITH FREEDOM OF INFORMATION JUDGMENTS

It should be noted in advance that there are no publicly available detailed statistics on the number of cases when court decisions are not executed (with a view in particular to those instances where enforcement proceedings are not initiated), nor, for example, on the number of cases where it is a state/public authority or institution that does not execute the decision of a Hungarian court – this lack of data is itself a problem that needs to be addressed. Therefore, the presentation of the issues below is based on information received from lawyers and NGO staff members, or published in the press.

[2] DH-DD(2022)519, https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a679ac

[3] *2022 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, European Commission, 13 July 2022, https://ec.europa.eu/info/sites/default/files/40_1_193993_coun_chap_hungary_en.pdf, p. 29.

1.1. Lack of effective enforcement tools to enforce compliance with judgments

From an enforcement perspective, the first difficulty in cases involving public interest data and data accessible on public interest grounds, as reported by lawyers to the HHC in the framework of its research carried out in 2021 for its study *"Non-Execution of Domestic and International Court Judgments in Hungary"* (hereinafter: HHC research), is the **lack of an effective and genuinely coercive enforcement tool**.

Enforcement in freedom of information cases is in fact **only possible through imposing a fine**, since without the active involvement and cooperation of the respondent, the data requester cannot access the data, so the possibility that exists in other types of cases (namely that the person initiating the enforcement procedure carries out the enforceable action himself/herself at the respondent's cost). It is questionable, however, what deterrent effect a fine of up to HUF 500 000 (approx. 1,250 EUR) per instance that can be imposed in an enforcement procedure under the applicable rules[4] can actually have, especially if the courts are reluctant to use the possibility of imposing fines to the fullest possible extent. For example, in an enforcement proceeding against the Ministry of Finance, the fine imposed by the court on the Ministry was only HUF 200 000 (approx. 500 EUR) in August 2021, even though the final and binding decision that was to be enforced was handed down almost two years before, in October 2019 (in terms of the judgment, the Ministry had to provide the Member of Parliament who had requested it, with the documents on the modification of the Paks nuclear plant loan agreement).[5]

1.2. Lack of criminal charges brought for non-compliance with judgments

In Hungary, the misuse of data of public interest is a criminal offence: according to Article 220(1)(a) of Act C of 2012 on the Criminal Code, anyone who conceals data of public interest from the data requester in violation of the provisions of the law on the disclosure of data of public interest, or **fails to comply with the obligation to disclose data after a court has issued a final and binding decision to disclose data of public interest, is liable for a criminal offence** punishable by imprisonment of up to two years.[6] However, the official statistics as presented below[7] show that **in practice, indictments are filed very rarely** on the basis of Article 220 of the Criminal Code. (Note that the numbers in Table 1 below include further forms of the offence as provided for by Article 220, such as falsifying or rendering data of public interest inaccessible; and publishing or rendering false or falsified data of public interest accessible. Data on the outcome of procedures specifically for Article 220(1)(a) is available to the petitioners only for the years 2018–2020, as shown in Table 2.)

[4] Act LIII of 1994 on Judicial Enforcement, Article 174(c)

[5] See e.g.: https://444.hu/2021/08/24/penzbirsagot-kapott-a-penzugyminiszterium-mert-nem-adjak-ki-a-paksi-hitelszerzodes-modositasarol-szolo-dokumentumokat.

[6] Act C of 2012 on the Criminal Code, Article 220(1)(a)

[7] Source for 2013–2017: https://bsr.bm.hu/Document; source for 2018–2020: response of the Chief Prosecutor's Office of 26 July 2022 to the HHC's freedom of information request (LFIIGA//419-3/2022). Please note that there has been a change in the method of data recording as of the second half of 2018, and so the data for 2013-2017 and for 2018-2020 cannot be directly compared.

Table 1: Misuse of data of public interest as per Article 220 of the Criminal Code – outcome of procedures

	Rejection of the report	Termination of the investigation/procedure	Indictment	Other
2013	10	26	-	-
2014	7	24	-	1
2015	7	28	-	1
2016	20	17	-	2
2017	14	15	-	1
2018	22	12	-	-
2019	7	5	3	2
2020	8	11	-	-

Table 2: Misuse of data of public interest by concealing data or failing to comply with a court decision to disclose data as per Article 220(1)(a) of the Criminal Code – outcome of procedures

	Rejection of the report	Termination of the investigation/procedure	Indictment	Other
2018	15	11	-	-
2019	5	5	3	1
2020	8	11	-	-

Accordingly, only very few cases reach the courts. Based on the data provided by the National Office for the Judiciary,[8] only one relevant court decision was delivered between 2013 and 2018: in a 2015 decision, the courts terminated a procedure launched on the basis of Article 220(1)(a) of the Criminal Code. The division of relevant court decisions issued in 2019-2021 are as follows:

Table 3: Misuse of data of public interest by concealing data or failing to comply with a court decision to disclose data as per Article 220(1)(a) of the Criminal Code – outcome of court cases[9]

		2019	2020	2021
Acquittal		-	-	-
Termination of the procedure		-	-	-
Conviction		3	2	2
Sanction*	Imprisonment	1	1	-
	Fine	-	1	1
	Conditional sentence with probation supervision	2	-	1
	Probation supervision	1	1	1

* More than one sanction might have been imposed on one defendant

[8] Response of the National Judicial Office of 27 July 2022 to the HHC's freedom of information request (2022.OBH.XII.B.42/5.)

[9] The statistical database for 2021 is not closed yet. It should be noted when assessing the data that multiple types of sanctions can be imposed upon one defendant, and so the total numbers of sanctions imposed can exceed the total number of defendants.

The following examples illustrate how these criminal procedures tank.

(i) In December 2016, Transparency International Hungary (TI-HU) submitted a freedom of information request to the Economic Committee of the Parliament in the case of the so-called residency bonds.[10] After the Committee failed to comply with the data request, TI-HU turned to court, and the court ordered the Economic Committee, both at first and second instance, to disclose the data that were taken into account when granting the authorisation to distribute the Hungarian residency bonds.[11] As a result, the Economic Committee shared several documents with the organisation. However, after examining them, TI-HU concluded that the documents provided were incomplete. In TI-HU's view, there were two possible reasons for this: either the Economic Committee did not fully comply with the final judgment ordering the release of the data of public interest (thus committing the above-mentioned offence under the Criminal Code), or it provided all the data in its possession, which in turn implies that it carried out the procedure for the approval of authorisations to distribute residency bonds on the basis of incomplete data and documents. Based on all that, TI-HU filed a criminal report against the Economic Committee of the Parliament in January 2018, but the prosecutor's office rejected the report.[12]

(ii) Similarly, the criminal report did not yield any results in the case of the so-called "tao" money either (this was a special tax scheme for companies to support sports teams). In 2016, TI-HU filed a lawsuit against the Ministry of Human Resources and the Ministry of National Economy (NGM) / Ministry of Finance (PM) to release the requested data, but the ministries failed to do so despite a final court ruling that obliged them to do so. TI-HU filed a complaint against the NGM/PM, but in September 2018 the police closed the investigation after the ministry claimed that it had not received the data requested by TI-HU from the sports federations obliged to provide it, in violation of the law, and therefore could not release those data. In other words, the ministry was exempted from criminal prosecution by admitting that the operation of the "tao" system was in breach of the law and it had failed to collect the information that it should have been monitoring.[13]

(iii) The case of the weekly *Magyar Narancs* and TI-HU, in which, despite the court's decision, the Hungarian National Holiday Foundation and the Erzsébet Utalványforgalmazó Ltd. did not disclose the contracts for the so-called Erzsébet vouchers' advertisements published in a certain government-affiliated media portfolio, also illustrates the practical deficiencies in the system. In January 2017, a final judgment was handed down in the case, which ruled that the contracts should be disclosed, but this did not happen. Consequently, enforcement proceedings were launched against the data owner, and TI-HU also filed a criminal report in May 2017.[14] The data were later released, and the police closed the investigation for lack of criminality – so although the crime was committed, there were no consequences. A year later, the investigative journalism portal *Átlátszó* reported on a hauntingly similar case involving Erzsébet Utalványforgalmazó Ltd.: although the court ordered the company to release the data in a

[10] Website of the Hungarian Residency Bond Program: https://www.residency-bond.eu/residency-bond-program.html.

[11] Metropolitan Court, 3 May 2017, 35.P.20.692/2017/10.; Metropolitan Regional Court, 5 October 2017, 2.Pf.20.776/2017/5/II.

[12] Central Prosecution Office of Investigation, 6 March 2018, 1.Nyom.151/2018.

[13] https://g7.hu/kozelet/20180926/a-nyomozok-sem-talaltak-a-kiperelt-iratokat-a-miniszteriumban/

[14] See e.g.: https://magyarnarancs.hu/belpol/vegrehajtast-kert-a-transparency-magyarorszag-a-honapok-ota-titkolt-habony-milliok-miatt-106713.

lawsuit launched by *Átlátszó*, it only released the data after *Átlátszó* had filed a criminal report, and then the police closed the investigation for lack of a criminal offence.[15]

(iv) In February 2021, TI-HU asked the National Institute of Pharmacy and Nutrition to disclose the documents relating to the authorisation of the Sputnik V and Sinopharm coronavirus vaccines, including an electronically searchable copy of the product specification. The Institute rejected the request, following which TI-HU launched a lawsuit, and the court ruled in favour of them. Subsequently, the Institute disclosed the documents requested, but with certain passages blanked-out, rendering certain data unrecognisable. TI-HU submitted a criminal report in the case, but the police rejected the report. According to the reasoning, for a criminal offence to have been committed under Article 220(1)(a) of the Criminal Code, the perpetrator's intention should be to prevent the disclosure of the data of public interest, and such intent cannot be reasonably inferred from the fact the Institute blanked out certain parts, for reasons unknown to TI-HU.[16]

2. GENERAL DEFICIENCIES OF THE ENFORCEMENT PROCEEDINGS

The enforcement proceeding, as regulated by Act LIII of 1994 on Judicial Enforcement, suffers from deficiencies in general that hinder its effective functioning and may deter petitioners from launching an enforcement proceeding at all, leaving court decisions non-executed. Some of these deficiencies are directly impacting the effectiveness of enforcement proceedings in respect of judgments authorising access to documents.

As reported by lawyers, the enforcement procedure is a "**costly and lengthy** legal process which does not promise certain success".[17] In addition, as indicated above, the fines that can be imposed in enforcement proceedings are low, and **the sanction regime has no deterrent or dissuasive effect**. When the HHC asked lawyers in its research what they considered to be the main and most common reason of why actors such as state authorities, institutions, or (in press rectification or personality rights cases) media outlets and media service providers do not voluntarily execute final court decisions, it was a recurring answer that because they can do so without consequences: the sanction system of the enforcement procedure is inadequate and the courts do not apply even these inadequate sanctions. Those delaying enforcement are aware that there are limited means available to the aggrieved party.

These factors, combined with the potentially excessive length of enforcement proceedings, can easily lead to a situation where the plaintiff in whose case the judgment is not executed and their lawyer decide that it is not worthwhile to launch an enforcement procedure. Many of the lawyers surveyed in the HHC research felt that enforcement proceedings were not only long, but also too complicated, cumbersome, ponderous and bureaucratic – hence, some lawyers do not even undertake representation in enforcement proceedings. Several lawyers also raised the issue that the number of court bailiffs is insufficient.

A number of **practical problems** emerge once the enforcement procedure is initiated that **limit the accessibility of the enforcement procedure**. These should be addressed to increase the efficiency of

[15] See: https://atlatszo.hu/kozugy/2018/08/21/ujabb-fordulat-az-erzsebet-utalvany-sztoriban-a-rendorseg-szerint-nem-buncselekmeny-ami-nagyon-annak-tunik/.

[16] Budapest Police Headquarters, 01000/5163/2021.bü

[17] https://444.hu/2021/11/17/egymas-utan-mondjak-ki-a-birosagok-hogy-amit-a-kormanymedia-csinal-annak-nincs-sok-koze-az-ujsagirashoz

the proceedings, and to decrease the financial and administrative burdens on the plaintiffs initiating the enforcement of a court decision. Such deficiencies include the following:

- In the case of the so-called irreversible obligations, i.e. obligations that are irreversible by nature if fulfilled, the Kúria (Hungary's supreme court) will automatically suspend enforcement in the event it receives an application for the review of the final decision. Such irreversible obligations include the disclosure of data of public interest. In such cases, it generally takes more than a year for the Kúria to reach a decision, and writing down the judgment usually takes another month, even in fast-track proceedings.

  A recent example of this is a freedom of information case launched by the investigative journalism portal *Átlátszó* after the Agricultural Ministry refused to disclose to them data on state subsidies provided to a company, the owner of which is the father-in-law of a minister. Both the first and second instance court ruled for *Átlátszó*, but the Agricultural Ministry failed to disclose the data for five months after the second instance decision. After *Átlátszó* initiated an enforcement proceeding, the Ministry asked for a review by the Kúria, even though it was clear from the second instance judgment that the Ministry's reasons for refusing the data request were in contradiction with the case-law of the Kúria. The request for the review automatically resulted in the suspension of the enforcement of the judgment.[18]

- In order to complete the enforcement request form in full, both in the case of a pecuniary claim and in the case of an enforcement proceedings aimed at the execution of a specific action, the person asking for enforcement shall obtain from the court which ruled in the case and record on the respective form a number of items of information which are otherwise available to the court.[19] This, in addition to being unnecessary work, leads to a loss of time. This is illustrated by the case of a citizen who applied to the municipal development company for documentation concerning public tenders. Here a lawsuit was needed, because although the company did not deny that the requested information was data of public interest, it was only willing to provide it in return for a large fee. After winning the case, the requested documents were not handed over even after the lawyer's specifically requested so, and therefore, the court ordered enforcement and imposed a fine on the company. However, the company challenged the order and the court withdrew the enforcement order on the basis that the documents the plaintiff asked on the enforcement form to be disclosed did not fully coincide with the documents that the enforceable judgment listed, and consequently a completely new enforcement procedure had to be started. Since the judgment is also at the disposal of the court acting in the enforcement procedure (and thus it is aware of what needs to be enforced), in most cases it is an additional and not inevitably necessary administrative task for the plaintiff to provide all that information once again.

- Even in proceedings in which parties are exempt from advancing the costs or which are not subject to costs, the winning party is obliged to advance the enforcement costs or the statutory part of it. This is not only inconsistent, but also unfair to a person who has been litigating for years and whose rights have been violated. Meanwhile, the costs of enforcement proceedings are high, and there were lawyers who believed that in many cases private persons choose not to pursue enforcement because of that.

[18] See: https://atlatszo.hu/kozadat/2022/07/13/tovabbra-sem-adja-ki-a-rogan-aposat-erinto-kozerdeku-adatokat-az-agrarminiszterium/.

[19] These include the part of the court decision to be enforced (but this cannot be simply copy-pasted), the date the court decision became final, and the deadline for voluntary execution.

- The fees of the legal representative and its minimum rate are regulated by Decree 12/1994. (IX. 8.) IM of the Ministry of Justice, which, in the absence of a fee agreement between the person asking for enforcement and their lawyer, sets the fees of the lawyer providing representation in enforcement proceedings at a level well below current market conditions. However, a remuneration included in the mandate contract is no guarantee either that the applicant will receive that from the debtor, since the legislator has provided the court with the possibility to reduce the lawyer's fee in justified cases under Article 2(1) of the Ministry of Justice decree. If the court makes use of this possibility, it may well happen that the person asking for the enforcement shall bear part of the costs of the proceedings in the end.
- Even successful enforcement procedures do not always lead to fully satisfactory results in terms of the requested data. Blanka Zöldi, a journalist for Direkt36, requested data from the National Infrastructure Development Company on the development of motorways and railways, won her case in which she was represented by the HCLU, but had to start enforcement proceedings, which resulted in her receiving a lot of documents, but only some of them contained the requested data.

3. EXCESSIVE LENGTH OF ENFORCEMENT PROCEEDINGS NOT ADDRESSED IN THE *GAZSÓ* GROUP OF CASES

The Revised Action Report states that "[a]ddressing the question of excessively lengthy enforcement proceedings is […] part of the general measures required in response to the structural problem of excessive length of civil proceedings, which is currently being examined by the Committee of Ministers within the framework of the *Gazsó* group of cases[20] under the enhanced supervision procedure. The authorities therefore note that the general measures required in response to the violation of Article 6 § 1 found in the present case are being addressed within the framework of the *Gazsó* group of cases. Their further examination in the context of the present case is not required."

However, **the law adopted** by the Hungarian Parliament in June 2021 **for the purposes of complying with the pilot judgment** handed down **in the *Gazsó v. Hungary* case** (which took five years, 14 Committee of Ministers' decisions and three interim resolutions to get adopted) **does not in fact cover enforcement proceedings**. Act XCIV of 2021 on the Enforcement of Pecuniary Satisfaction Relating to Protraction of Civil Contentious Proceedings introduced, as of January 2022, a compensatory (financial) remedy for excessively lengthy civil proceediíngs (civil law trial cases), but no similar compensation is envisaged for either administrative court procedures or criminal proceedings, and the law does not cover non-trial procedures either, such as the enforcement proceedings.[21] (The law has been also criticized for the low amounts of compensation offered and for its leniency vis-à-vis the courts when it comes to defining the reasonable length of procedures.)[22]

In its latest decision issued in relation to the *Gazsó* group of cases in December 2021, the Committee of Ministers "noted the authorities' timetable for preparing a proposal for a remedy covering other types of judicial proceedings by the end of June 2023".[23] However, **there is no information available**

[20] https://hudoc.exec.coe.int/eng?i=004-10875

[21] See also: CM/Notes/1419/H46-15, Footnote 9.

[22] For more details, see: *Contributions of Hungarian NGOs to the European Commission's Rule of Law Report,* January 2022, https://helsinki.hu/en/wp-content/uploads/sites/2/2022/01/HUN_NGO_contribution_EC_RoL_Report_2022.pdf, pp. 17–18. The English translation of the law as provided by the Government is available here: https://hudoc.exec.coe.int/eng?i=DH-DD(2021)1067E.

[23] CM/Del/Dec(2021)1419/H46-15, https://hudoc.exec.coe.int/eng?i=004-10875, § 5.

which would make it clear whether these **governmental plans for remedies cover non-trial procedures, such as the enforcement proceedings, as well**. This can be called into question also because none of the pending cases in the *Gazsó* group of cases centres on the excessive length of an enforcement proceeding. (The supervision of the case the Revised Action Report refers to in Footnote 2 as an example for an excessively lengthy enforcement proceedings, *Ágnes Kovács v. Hungary*,[24] is already closed, and so referring to this case is misleading.) Furthermore, even if we presume that compensation is actually envisaged for excessively lengthy enforcement proceedings as well, **there is no information that would indicate that measures beyond providing compensation are foreseen specifically for decreasing the length of enforcement proceedings or to provide a remedy other than compensation**.

Therefore, in the petitioners' view, **the Government did not demonstrate adequately simply by referring to the *Gazsó* group of cases how it has addressed or plans to address the excessive length of enforcement proceedings or the lack of (compensatory or other) remedy in relation to that**.

Furthermore, the petitioners are of the view that the issue of enforcement proceedings being used to prolong restricted access to information is particularly serious and more specific than the issues of length of proceedings raised in the *Gazsó* group of cases, and, at the same time, it is also systematic enough that it should be examined separately in the *Kenedi* case. **Were the issue of excessive length of proceedings to be examined in the *Gazsó* group exclusively, then the gravity and specific nature of the Article 10 violations would not be taken into account** when preparing the remedy and other relevant general measures. Measures addressing the excessive length of enforcement proceedings in the context of freedom of information should be tailored to this particular issue.

4. RECOMMENDATIONS

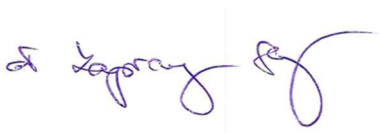
For the reasons above, the HCLU and the HHC respectfully recommend the Committee of Ministers **to continue examining the execution of the judgment** in the *Kenedi v. Hungary* case, and to move the case from the standard to the enhanced procedure. Furthermore, we respectfully recommend the Committee of Ministers to call on the Government of Hungary to:

- **Provide efficient and genuinely coercive enforcement tools** for the instances when state/public authorities or institutions fail to comply with domestic court judgments, with a special regard to freedom of information cases. **Raise the maximum amount of fine that can be imposed** on public authorities and institutions for not complying with such judgments.
- Ensure that **criminal procedures** launched on the basis of non-compliance with the obligation to disclose data in violation of a final and binding court decision **are not discontinued solely on the basis that the alleged perpetrator eventually disclosed the data** requested after the criminal procedure had been launched. This may be taken into account as a mitigating circumstance, but does not annul the fact that the criminal offence has already been committed through non-compliance.
- **Increase the accessibility of the enforcement proceedings** in general, by decreasing the overall financial and administrative burdens falling on plaintiffs initiating the enforcement of a court decision.

[24] *Kovács no. 3. v. Hungary* (Application no. 12089/07, Judgment of 24 September 2013), https://hudoc.exec.coe.int/eng?i=004-10469

- Ensure that the length of enforcement proceedings in freedom of information cases is reasonable, and that **effective remedies** are introduced for protracted enforcement proceedings, including compensatory remedy.
- Ensure that the Hungarian authorities **collect the data necessary to assess the implementation** of the judgment in the *Kenedi v. Hungary* case, including disaggregated data on the number of cases where it is a state/public authority or institution that does not execute the decision of a Hungarian court regarding freedom of information, and the number of enforcement proceedings launched against state/public authorities or institutions in freedom of information cases.

Sincerely yours,



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