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Council of Europe
DGI – Directorate General of Human Rights and Rule of Law
Department for the Execution of Judgments of the ECHR

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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)

Dear Madams and Sirs,

The Hungarian Civil Liberties Union, the Hungarian Helsinki Committee, K-Monitor and Transparency International Hungary 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* (Application no. 15428/16), *Mándli and Others v. Hungary* (Application no. 63164/16), *Magyar Jeti Zrt v. Hungary* (Application no. 11257/16), *Uj v. Hungary* (Application no. 23954/10), *Társaság a Szabadságjogokért v. Hungary* (Application no. 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

The **K-Monitor** is a Hungarian anti-corruption NGO set up in 2007 to track the questionable spending of public funds and to use innovative tech tools to promote greater transparency and accountability. In its first two years, the organisation worked with volunteers and created its first and still one of its most popular applications, the corruption and public funds database. Over time, K-Monitor’s toolkit has continued to expand, alongside IT developments, the research pillar of the organisation has grown stronger and public interest litigation has become a new activity too. The last decade has also seen the expansion of advocacy activities towards local government and the EU, and the strategic goal of strengthening public participation. In addition to exposing corruption, K-Monitor is thus increasingly focusing on the structural causes and effects of the abuse of power and on presenting alternatives to the corrupt exercise of power. K-Monitor intensively collaborates with other Hungarian initiatives, municipalities and various European and international organisations.

Transparency International Hungary is an independent non-governmental organization that strives to monitor the anti-corruption performance of the government and to mitigate corruption in both the public and private sectors. We believe that a transparent public sphere cannot be without adequate information access, along with accountable management of public funds and transparent decision-making processes. Therefore, Transparency International Hungary supports all initiatives that strengthen public trust through access to information by requesting data of public interest and FOI-litigations. We emphasize the importance of promoting public sector accountability in several ways. In addition to monitoring public procurement, protecting whistleblowers and raising public awareness about corruption, we provide assistance to investigative journalists, to foster transparency and integrity in the public sector.

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.

In a communication submitted in 2022 (hereafter: 2022 NGO communication),² the HCLU and the HHC demonstrated that the **non-execution of domestic court judgments by state authorities and public bodies in freedom of information cases, along with the lack of effective enforcement of judgments in these cases remains a severe problem** in Hungary.

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.

² DH-DD(2022)832, <https://rm.coe.int/0900001680a78eeb>

On 13 February 2024, the Hungarian Government submitted a Revised Action Report³ (hereafter: Revised Action Report 2024), claiming that the *Kenedi v. Hungary* case “appears to constitute an isolated incident”. However, the Government failed to put forth any kind of evidence that would support this statement, and **failed to refute in any meaningful way the research results and experiences of NGOs and attorneys presented** in the 2022 NGO communication as regards the systemic non-execution of domestic court judgments by state authorities in freedom of information cases. In addition, the **systemic causes behind the non-compliance with freedom of information judgments continue to persist**, and have not been addressed by the Government in any way. These include the lack of effective and genuinely coercive enforcement tools, and that the criminal procedures launched for non-compliance with freedom of information judgments 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 2024, the **excessive length of enforcement proceedings is not being addressed** in the framework of implementing the judgments in the *Gazsó v. Hungary* group of cases.

Therefore, the NGOs submitting the present communication are of the view that **the Hungarian Government has not taken the necessary general measures to prevent the occurrence of similar violations** in the future, and, therefore, the judgment in the *Kenedi v. Hungary* case cannot be considered implemented.

1. CONTEXT: FREEDOM OF INFORMATION IN HUNGARY

Imposing undue restrictions on freedom of information constitutes a part of the general rule of law backsliding in Hungary. This is also demonstrated by the fact that improving transparency and access to public information was established as a precondition of Hungary accessing EU funds from the Recovery and Resilience Facility (RRF). However, the respective RRF milestones have only been complied with partially,⁴ and despite recent legislative changes adopted with a view to the milestones, severe deficiencies regarding freedom of information requests (and access to public information in general) remain.⁵

It is a widespread practice of data holders that they do not comply with freedom of information requests, reject them with vague justifications, or make extensive use of statutory exceptions (referring to business secrets or that the documents asked for are “preparatory materials” for certain decisions) that require keeping information confidential. In addition, in December 2023, the Parliament adopted legal changes that define new legal grounds to refuse freedom of information requests.⁶ As far as lawsuits launched to access public information are concerned, new litigation rules introduced in 2022 due to the RRF milestones have indeed significantly speeded up access to

³ DH-DD(2024)175, <https://rm.coe.int/0900001680ae852b>

⁴ See: Amnesty International Hungary – Eötvös Károly Institute – Hungarian Civil Liberties Union – Hungarian Helsinki Committee – K-Monitor – Transparency International Hungary, *Assessment of Hungary's Compliance with Conditions to Access European Union Funds*, November 2023, https://helsinki.hu/en/wp-content/uploads/sites/2/2023/11/HU_EU_funds_assessment_Q3_2023_table.pdf, Milestones 229, 230 and 231; K-Monitor. *A year of missed opportunities – Assessment of the implementation of the anti-corruption commitments*, October 2023, https://m.blog.hu/k/k/file/assessment_q32023_k-monitor.pdf, p. 9.

⁵ See e.g.: *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2024, https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN_CS0_contribution_EC_RoL_Report_2024.pdf, pp. 33-34., 46-47. and 64-66.

⁶ *Ibid.*, p. 46.

information court cases, but the fast-track rules can in many cases be burdensome for the data requesters, who are usually private individuals or NGOs with no or limited resources, whereas their opponents, i.e., the data holders normally rely on inexhaustible financial resources and benefit from robust legal infrastructures, therefore they are prone to more easily cope with often extremely short deadlines set by the court.⁷ In addition, the lack of equality of arms in these processes has not been addressed, and the rules disproportionately distribute the burden of proof (e.g., court precedents allow for the defendant, i.e. the data holder, to invoke new grounds to justify the denial of the public interest information request during the court process).⁸ Further examples for deficiencies include that the Parliament has failed to address to this day a constitutional omission identified by the Constitutional Court in 2020 regarding the lack of effective judicial remedy for data requesters in certain scenarios.⁹ It is a welcome change that authorities cannot ask for excessive fees any more in exchange for releasing public data, and that the extensive 45-day deadline (that could be extended with another 45 days) introduced for replying to freedom of information requests with a reference to the state of danger in a governmental decree was repealed as well in 2022. However, the Government can still use the excessive authorisation it received due to the state of danger to curtail freedom of information, as it was demonstrated by a decree adopted in September 2022 that made inaccessible the minutes of the body responsible for countering COVID amidst an ongoing lawsuit by an online news portal to access those documents.¹⁰

Finally, it has to be stressed that the anomalies around the *implementation* of freedom of information judgments were not addressed by the RRF milestones or any of the legal changes of the past years.

2. LACK OF STATISTICAL DATA

It is a widespread experience of lawyers and NGOs (both the authors of the present communication and beyond) that state/public authorities and public bodies frequently fail to comply with final domestic court decisions ordering data holders to make the requested data available. This is regularly reported publicly as well by the NGOs in question.

In turn, the Government stated in its Revised Action Report 2024 that the issue underlying *the Kenedi v. Hungary* case, i.e. the non-execution of a final judgment regarding a freedom of information request “appears to constitute an isolated incident”. The only argument the Government presented in this regard is that “[t]here have been no other cases communicated by the Court against Hungary in respect of this problem”, which cannot be considered as evidence in itself that the problem widely experienced and reported by Hungarian NGOs and lawyers does not exist. **The Government has failed to put forth any kind of concrete evidence (e.g. statistical data or independent research) that would support its statement that the case appears to be an isolated incident, and failed to refute the research results and experiences of NGOs and attorneys presented in the 2022 NGO communication as regards the systemic non-execution of domestic court judgments by state authorities in freedom of information cases.**

⁷ See also: https://k.blog.hu/2024/01/16/k-monitor_s_report_on_the_hungarian_freedom_of_information_laws_adopted_in_the_conditionality_proced.

⁸ *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2024, https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN_CS0_contribution_EC_RoL_Report_2024.pdf, pp. 33-34.

⁹ Decision 7/2020. (V. 13.) of the Constitutional Court, listed as not implemented on the Parliament's website here: <https://www.parlament.hu/az-orszagguyules-donteseire-vonatkozoz-alkotmanybirosagi-hatarozatok>.

¹⁰ Government Decree 356/2022. (IX. 19.) on Exercising Rights Related to the Public Nature of Certain Public Interest Information During the State of Danger

As it was noted already in the 2022 NGO communication, **there are no publicly available (i.e. proactively published) detailed official 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 a state/public authority or body does not execute the decision of a Hungarian court – this lack of data is itself a problem that needs to be addressed.

In April 2024, the HHC submitted a freedom of information request to the Budapest-Capital Regional Court (*Fővárosi Törvényszék*), as the court having jurisdiction in most freedom of information cases, and asked for statistical data for the years 2019–2023 on the freedom of information lawsuits launched, the judgments delivered, and the enforcement proceedings launched in such cases, with a view to identify the exact proportion of freedom information judgments ordering state authorities or public bodies to disclose public data which are not executed (or, more precisely, the proportion of those in which the data requester initiated an enforcement proceedings). However, in its response,¹¹ **the Budapest-Capital Regional Court refused to provide the data on the number of enforcement proceedings launched in freedom of information cases**, arguing that the court does not collect and record the respective data in its system. According to their response, providing the data on enforcement proceedings in freedom of information cases would require the court to review the affected 515 court cases one-by-one, which the court is not obliged to do under the respective legal provisions and which would threaten the uninterrupted operation of the court and the completion of its basic duties. Thus, **the data necessary to evaluate the practice cannot be accessed via targeted freedom of information requests either.**

In the petitioners' view, given that it is the state's duty to take the necessary general measures to prevent the occurrence of similar violations in the framework of its obligation to execute the Court's judgments, **it falls on the state to collect the statistical and other data relevant from an implementation aspect.** Thus, it falls on the Government to take steps to ensure that relevant statistical data is gathered, to procure (independent) research into the issue, etc., with a view to providing an overarching and thorough assessment of the situation. The Government cannot free itself from this obligation by simply stating (only on the basis of applications submitted to the Court) that the case "appears to constitute an isolated incident", especially if there are clear indications to the contrary.

3. SYSTEMIC CAUSES OF NON-COMPLIANCE WITH FREEDOM OF INFORMATION JUDGMENTS

The **Government does not address in any way in the Revised Action Report 2024 the systemic causes** identified by the 2022 NGO communication as factors **heavily contributing to the non-execution of domestic court judgments ordering state authorities to disclose public data.** The petitioners submit that **these systemic causes of non-compliance still prevail, and that there have been no positive changes in the law or in the practice** in this regard. Below, we summarize the main deficiencies (presented in detail in the 2022 NGO communication),¹² accompanied by updated statistical data.

¹¹ Response no. 2024.El.IV.H.34/5. of 8 May 2024

¹² See as well: Hungarian Helsinki Committee, *Hungarian Non-Execution of Domestic and International Court Judgments in Hungary, 2021*, https://helsinki.hu/en/wp-content/uploads/sites/2/2021/12/HHC_Non-Execution_of_Court_Judgments_2021.pdf, Chapter 1.1.1.

3.1. 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 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 themselves at the respondent's cost) is not available. It is questionable, however, what deterrent effect a fine of up to HUF 500,000 (approx. 1,300 EUR) per instance that can be imposed in an enforcement procedure on the authority/body under the applicable rules³³ can actually have, especially if, as experience shows, the courts are reluctant to use the possibility of imposing fines to the fullest possible extent.

3.2. 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.³⁴ However, the official statistics as presented below³⁵ show that **in practice, indictments are filed very rarely** on this basis.

Table 1: 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	Suspension of procedure
2018	15	11	-	-
2019	5	5	3	1
2020	8	11	-	-
2021	3	7	-	-
2022	5	6	-	1

Accordingly, only very few cases reach the courts. Based on the data provided by the National Office for the Judiciary,³⁶ 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 2019–2023 is as follows:

³³ Act LIII of 1994 on Judicial Enforcement, Article 174(c)

³⁴ Act C of 2012 on the Criminal Code, Article 220(1)(a)

³⁵ 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); source for 2021–2022: response of the Chief Prosecutor's Office of 6 May 2024 to the HHC's freedom of information request (LFIIGA//298-5/2024).

³⁶ Sources: responses of the National Office for the Judiciary of 27 July 2022 (2022.OBH.XII.B.42/5.) and of 2 May 2024 (2024.OBH.XII.B.24/4.) to the HHC's freedom of information requests.

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 court cases¹⁷

	2019	2020	2021	2022	2023
Acquittal	-	-	-	-	-
Termination of the procedure	-	-	-	-	-
Conviction	3	2	1	-	-

In the 2022 NGO communication, petitioners presented several examples illustrating how criminal procedures tank in these cases, e.g. are discontinued solely on the basis that the alleged perpetrator eventually disclosed the data requested after the criminal procedure had been launched. A more recent criminal case initiated by Transparency International Hungary demonstrates that these criminal procedures can get protracted as well: after the NGO reported in February 2023 that a final court judgment was not executed adequately and they did not receive the public data as ordered by the court, the investigation was launched in April 2023 and the NGO’s legal director was heard as a witness in July 2023. However, the procedure is still pending.¹⁸

4. GENERAL DEFICIENCIES OF THE ENFORCEMENT PROCEEDINGS

As presented in the 2022 NGO communication in detail, **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. **None of these deficiencies have been addressed by the Government** since the 2022 NGO communication, and the enforcement proceedings remains an over-formalized and hard-to-access process.

As reported by lawyers, the enforcement procedure is a **“costly and lengthy** legal process which does not promise certain success”.¹⁹ 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:** the sanction system is inadequate and the courts do not apply even these inadequate sanctions. These factors, combined with the potentially excessive length of enforcement proceedings, can easily lead to a situation where the plaintiff and their lawyer decide that it is not worthwhile to launch an enforcement procedure. Many of the lawyers surveyed in the HHC’s 2021 research felt that enforcement proceedings were too complicated, cumbersome, ponderous and bureaucratic.

A number of **practical problems** emerge once the enforcement procedure is initiated that **limit the accessibility of the enforcement procedure.** These issues should be addressed to increase the efficiency of the proceedings, and to decrease the financial and administrative burdens on the plaintiffs initiating the enforcement of a court decision. Such deficiencies, which are presented in more detail in the 2022 NGO communication, include the following:

¹⁷ The statistical database for 2023 is not closed yet.

¹⁸ See: <https://transparency.hu/hirek/brfk-nyomozas-kisfaludy2030-zrt/> and https://transparency.hu/wp-content/uploads/2023/02/Transparency_Int_Mo_feljelentes_Kisfaludy2030_ellen_20230213.pdf.

¹⁹ <https://444.hu/2021/11/17/egymas-utan-mondjak-ki-a-birosagok-hogy-amit-a-kormanymedia-csinal-annak-nincs-sok-koze-az-ujzagirashoz>

- 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.
- In order to complete the enforcement request form in full, 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.²⁰
- 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.

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

As regards the excessive length of enforcement proceedings, the Revised Action Report 2024 essentially repeats the previous action report when stating 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” and so the “further examination of the aspects of Article 6 § 1 in the context of the present case is not required”. As a new element, the Revised Action Report 2024 also states that “[a]t the same time the procedures relating to the execution of the judgments of the domestic courts have been accelerated”, but, again, fails to provide any kind of information, evidence or reference to substantiate the statement.

It has to be emphasized in this respect again that **the law adopted** by the Hungarian Parliament in 2021²¹ **for the purposes of complying with the pilot judgment handed down in the *Gazsó v. Hungary* case does not cover enforcement proceedings**, and introduced a compensatory (financial) remedy only for excessively lengthy civil contentious proceedings (civil law trial cases). Thus, no compensatory remedy is available for protracted administrative court procedures or criminal proceedings, and the law does not cover non-contentious (non-trial) procedures either, such as enforcement proceedings, or constitutional review procedures.²² In its latest decision, issued in June 2023, the Committee of Ministers (CM) “*expressed their serious concern that despite the authorities’ announcements for a draft legislation by June 2023 and the [CM’s] request for an accelerated planning, no information has been communicated as regards the outstanding administrative and criminal remedies; urged the authorities to intensify their efforts in these respects and to provide the [CM] with a concrete timetable for the legislative process for administrative and criminal remedies without further delay; given that the compensatory remedy in Act No. XCIV of 2021 is not applicable to non-contentious civil proceedings, firmly invited them to find a solution ensuring that all kinds of civil proceedings falling under the scope of Article 6 of the Convention (in particular non-contentious proceedings) are covered by a remedy for excessively lengthy proceedings as required by the [Convention] and the [Court’s] case-*

²⁰ 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.

²¹ Act XCIV of 2021 on the Enforcement of Pecuniary Satisfaction Relating to the Protractedness of Civil Contentious Proceedings

²² See also: CM/Notes/1419/H46-15, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090001680a48aca, footnote 9.

law".²³ However, **no legislative steps have been taken to date to comply with the CM's decision in this regard, and there is no information that would indicate that such a law or any other measures 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 plans to address the excessive length of enforcement proceedings or the lack of (compensatory or other) remedy in relation to that.**

Furthermore, the petitioners repeat the standpoint included in the 2022 NGO communication 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 v. Hungary* 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.

6. RECOMMENDATIONS

For the reasons above, the undersigned NGOs respectfully recommend the Committee of Ministers **to continue examining the execution of the judgment** in the *Kenedi v. Hungary* case.

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 bodies 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 state/public authorities and bodies 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. Moreover, this allows offenders to ensure that public interest data only become public after they have lost their relevance.
- **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.
- 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 a compensatory remedy.

²³ CM/Del/Dec(2023)1468/H46-13, <https://hudoc.exec.coe.int/eng?i=004-10875>

- 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 body 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 bodies in freedom of information cases.

Sincerely yours,

Máté Szabó

Director of Programs
Hungarian Civil Liberties
Union



András Kristóf Kádár

Co-Chair
Hungarian Helsinki
Committee



Sándor Léderer

Director
K-Monitor



Miklós Ligeti

Legal Director
Transparency
International Hungary



Annex:

- Response no. 2024.El.IV.H.34/5. of 8 May 2024 of the Budapest-Capital Regional Court (*Fővárosi Törvényszék*) to the freedom of information request of the Hungarian Helsinki Committee