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Persistent Gaps in the Fight Against Ill-treatment

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The Hungarian Helsinki Committee (HHC), a human rights non-governmental organisation based in Budapest, Hungary, would like to draw the attention of the Organisation for Security and Co-operation in Europe (OSCE) to the continuing deficiencies in the fight against ill-treatment in Hungary.

The Hungarian Government continues to fail to address systemic deficiencies in preventing, investigating and sanctioning ill-treatment, while the lack of video recordings, adequate medical examinations and witness statements in almost all cases further increases the likelihood of impunity. Between 2019 and 2023, the prosecution decided to file an indictment **in only 3.6 to 6.4%** of alleged cases of ill-treatment in official proceedings and **in only 2.8 to 9.2%** of alleged cases of coercive interrogation each year.¹ The total number of indictments in ill-treatment in official proceedings between 2019 and 2023 was 107; in coercive interrogation, a mere 6. In addition, the prosecution's conviction rate in cases of ill-treatment is lower than the average annual prosecutorial conviction rate, making it clear that **the vast majority of these violations remain without consequences.**²

The effective reduction of cases of ill-treatment is hampered by a number of systemic deficiencies, including

- legal and practical deficiencies in relation to the video recording of police work;
- shortcomings in the training of law enforcement officials and in the assessment of police work;
- lack of independent and adequate medical examination of detainees (with police officers being present during medical examinations of detainees as a main rule);
- substantive shortcomings in the investigations into ill-treatment and low rates of indictment;
- judicial leniency towards law enforcement officials with regard to sentencing;
- the eligibility for service of convicted law enforcement officials; and

¹ Based on data provided by the Chief Prosecutor's Office upon the HHC's FOI requests (LFIIGA//259-10/2020, 2 March 2020; LFIIGA//469-2/2021, 5 October 2021; LFIIGA//476-3/2022, 15 October 2022; LFIIGA//310-3/2024, 28 May 2024; ABOIGA//1-354/2024., 24 September 2024). Note that the ratio is calculated based on the number of cases in which a decision was reached by the prosecution in a given year, not on the basis of the number of criminal cases launched in a given year.

² Hungarian Helsinki Committee, NGO communication with regard to the execution of the judgments of the European Court of Human Rights in the Gubacsi v. Hungary group of cases, 26 October 2022, [DH-DD\(2022\)1202](#).

- the lack of effective monitoring of detention and the functioning of procedural safeguards that also prevent torture.³

Deficiencies in eliminating ill-treatment

Contrary to the recommendations of the UN Human Rights Committee⁴ (HRC) and the Council of Europe's Committee for the Prevention of Torture (CPT),⁵ Hungary has failed to address systemic deficiencies in the prevention, investigation and sanctioning of ill-treatment, and has thus failed to execute respective ECtHR judgments.⁶

The success rate of reporting and prosecuting cases of ill-treatment remains extremely low, and there are significant shortcomings in investigations and the application of procedural safeguards. Judges are lenient in sentencing law enforcement officers and convicted officers can still be declared eligible for service in case they are only sentenced to community work or are fined. For example, between 2019 and 2023, out of the 77 convictions in ill-treatment in official proceedings, 72 were either fines or suspended sentences. In the same period, the three convictions in coercive interrogation were all fines.⁷ The current legal framework allows the Minister of Interior to reinstate law enforcement officers (police officers, penitentiary staff, etc) sentenced to suspended imprisonment, thereby allowing them to continue their work despite being found guilty. Legal and practical shortcomings remain with regard to video recording of police work and video/audio recording of interrogations is still not mandatory in all cases. It is still not mandated by law to install cameras in all places of detention, while only 7.4% of police vehicles are actually equipped with a functional camera.⁸

Police training does not include specialised knowledge on the prevention of ill-treatment, and there is no systematic training for practising prosecutors. In addition, there is no strong indication of determination from law enforcement agencies or the government to enforce a zero-tolerance policy towards police ill-treatment.

Independent and adequate medical examinations of detainees alleging ill-treatment are not guaranteed. The Hungarian Government refuses to establish an independent medical examination body mandated to examine alleged victims of ill-treatment. In this context, detainees making allegations of ill-treatment by law enforcement officials do not have the right to be examined by an independent medical expert or physician, and the right of access to an external doctor during detention is generally not formally guaranteed. Moreover, doctors do not receive training on the Istanbul Protocol and therefore do not know how to properly document injuries. Furthermore, the full confidentiality of medical examinations of detainees is not guaranteed, meaning that the presence of police officers during medical examinations of detainees remains the main rule.

³ *ibid.*

⁴ Human Rights Committee, Concluding observations on the sixth periodic report of Hungary, [CCPR/C/HUN/CO/6](#), 9 May 2018, § 36.

⁵ Report to the Hungarian Government on the visit to Hungary carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 29 November 2018, [CPT/Inf \(2020\) 8](#), see especially p. 5. and §§ 36–37.

⁶ See the latest decision of the Committee of Ministers of the Council of Europe of December 2022 in relation to the *Gubacsi v. Hungary* group of cases, application no. [44686/07, CM/Del/Dec\(2022\)1451/H46-16](#).

⁷ Source of the data in the table: responses of the National Office for the Judiciary to the HHC's FOI requests (2020.OBH.XII.B.10/8., 23 March 2020; 2021.OBH.XII.B.69/3., 7 October 2021; 2022.OBH.XII.B.61/4., 11 October 2022; 2024.OBH.XII.B.3., 28 May 2024).

⁸ Response of the National Police Headquarters to the HHC's FOI request, 29000-197/49 -41/2024. KOZA, May 2024.

Lack of adequate human rights protection against ill-treatment

As a result of the rule of law backsliding in Hungary, the effective protection of human rights has been significantly weakened in recent years.⁹ In June 2021, the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI) recommended that the Commissioner for Fundamental Rights (CFR) be downgraded from an 'A' to a 'B' status as a national human rights institution.¹⁰ In its report of March 2022, the SCA concluded¹¹ that the CFR had not substantiated, among other things, that it was "fulfilling its mandate to effectively promote and protect all human rights", and therefore stressed that the failure to do so "evidences a lack of independence" of the CFR.

Since 2015, the CFR has also acted as Hungary's National Preventive Mechanism (NPM) under the OPCAT. In 2021, the Committee of Ministers of the Council of Europe, in the context of supervising the execution of judgments of the European Court of Human Rights issued in a group of cases related to police ill-treatment,¹² expressed concerns about the functional independence and funding of the NPM, the human and financial resources allocated to it, and "its capacity to carry out additional preventive work other than detention monitoring".¹³ In December 2022, it reiterated its call on Hungarian authorities to provide information on measures taken or foreseen to strengthen the role of the CFR in performing its NPM function.¹⁴ Regarding the structure and independence of the NPM, the UN Subcommittee on Prevention of Torture (SPT) already noted in 2017 that it was "particularly concerned at the lack of functional independence of the [NPM] within the Office of the Commissioner for Fundamental Rights".¹⁵

Following the unilateral termination of cooperation agreements with civil society organisations by various authorities in 2017, Hungary's NPM remains the only external actor monitoring closed facilities, including places of detention.¹⁶ For more than two decades, the HHC operated the only lay prison monitoring scheme in Hungary. As civil society organisations are also not involved in the NPM's monitoring visits, the abolition of lay monitoring has significantly weakened the protection of detainees' rights and the chances of uncovering systemic problems.¹⁷

⁹ See, e.g., Hungarian Helsinki Committee, Rule of law backsliding in Hungary from a criminal justice and law enforcement perspective, January 2023, https://helsinki.hu/en/wp-content/uploads/sites/2/2023/01/HHC_criminal_justice_and_RoL_HU_012023.pdf.

¹⁰ Global Alliance of National Human Rights Institutions (GANHRI), Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation (SCA), 14-24 June 2021, <https://www.ohchr.org/Documents/Countries/NHRI/GANHRI/EN-SCA-Report-June-2021.pdf>, pp. 12-15.

¹¹ Global Alliance of National Human Rights Institutions (GANHRI), Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation (SCA), 14-25 March 2022, https://www.ohchr.org/sites/default/files/2022-04/SCA-Report-March-2022_E.pdf, pp. 43-47.

¹² Gubacsi v. Hungary group of cases, Application no. [44686/07](https://www.echr.coe.int/ViewDoc.aspx?id=44686/07), Judgment of 28 June 2011.

¹³ [CM/Del/Dec\(2021\)1419/H46-16](https://www.echr.coe.int/ViewDoc.aspx?id=1419/H46-16), para. 7.

¹⁴ [CM/Del/Dec\(2022\)1451/H46-16](https://www.echr.coe.int/ViewDoc.aspx?id=1451/H46-16), para. 10.

¹⁵ Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Visit to Hungary undertaken from 21 to 30 March 2017: observations and recommendations addressed to the national preventive mechanism – Report of the Subcommittee, CAT/OP/HUN/2, § 14.

¹⁶ Hungarian Helsinki Committee, National authorities terminate cooperation agreements with the Hungarian Helsinki Committee, 20 October 2017, <https://helsinki.hu/wp-content/uploads/termination-of-agreements-summary.pdf>.

¹⁷ See, for example, Submission of the Justice and Rule of Law Programme of the Hungarian Helsinki Committee for the periodic visit to Hungary by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), March 2023, https://helsinki.hu/en/wp-content/uploads/sites/2/2023/09/HHC_CriminalJustice_CPT2023-web.pdf.

RECOMMENDATIONS

We call on the OSCE and OSCE Participating States to urge the Hungarian Government to:

1. Ensure by law that the installation of recording devices is **mandatory in all places of detention** and that recordings are retained for an appropriate period of time. Equip all police vehicles with operational recording devices and increase the number of available police body cameras;
2. Ensure adequate medical examination of detainees by establishing an independent medical examination body, providing training on the **Istanbul Protocol**¹⁸ to medical practitioners and criminal justice actors, and ensuring by law that **police officers should not, as a general rule, be present during medical examinations** of detainees;
3. **Improve the efficiency of investigations into cases of ill-treatment** and address judicial leniency towards law enforcement officials;
4. Revise the police performance assessment system and place greater emphasis on factors such as crime prevention and the public's trust in the police. Review the rules on the eligibility for service of convicted police officers and **ensure that officers convicted of ill-treatment are not allowed to continue in service**;
5. Provide **systematic training on ill-treatment** for police officers, criminal justice actors and judges. Include training on non-coercive, non-accusatory interviewing techniques;
6. **Ensure the functional independence of the NPM** and provide it with sufficient resources to enable it to regularly monitor places of detention and the application of procedural safeguards to prevent torture;
7. **Guarantee access for CSOs** to monitor closed facilities, including places of detention; and
8. Ensure that the NPM **substantially involves CSOs** in its work, including in monitoring visits, in order to strengthen monitoring capacities and ensure more comprehensive oversight of the detention system.

¹⁸ UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Office of the United Nations High Commissioner for Human Rights, Professional Training Series No. 8/Rev.1.