



# HUNGARIAN HELSINKI COMMITTEE

Budapest, 14 June 2024

**Ms. Margaret Satterthwaite**

UN Special Rapporteur on the independence of judges and lawyers

via e-mail to [hrc-sr-independencejl@un.org](mailto:hrc-sr-independencejl@un.org)

subject: Submission to report for UNGA 79

Dear Ms. Satterthwaite,

Please find below the **submission of the Hungarian Helsinki Committee** to the call for input for the Special Rapporteur's forthcoming report to be presented at the **79th session of the General Assembly in October 2024 on the undue influence of economic actors on judicial systems in Hungary**.

The **Hungarian Helsinki Committee (HHC)** is an independent human rights watchdog organisation, working towards defending the rule of law in Hungary. As a leading Hungarian human rights organisation with a globally recognised reputation, the HHC also focuses on the developments concerning the independence of the judiciary and monitors Hungary's compliance with relevant UN, EU, Council of Europe, and OSCE rule of law standards, cooperating with international human rights fora and mechanisms.

## **I. THE FINANCIAL CRISIS OF THE HUNGARIAN JUDICIARY AS SYSTEMIC PROBLEM INVOLVING A HIGH RISK OF UNDUE INFLUENCE BY ECONOMIC ACTORS**

Taking into consideration the 'Concept Note on the Undue Influence of Economic Actors on Judicial Systems' and the key questions listed in the call of the Special Rapporteur,<sup>1</sup> the HHC hereby intends to draw attention to the **financial crisis of the Hungarian judiciary and the critically low remuneration of judges and judicial staff in Hungary**. Over the past years, the underfinancing of the justice system has become a systemic problem, that gives cause to serious concerns with respect to the independence of the judiciary in general, jeopardising the functioning of courts and posing a high risk of influence by external parties, including economic groups or wealthy individuals. The HHC is not an anti-corruption organisation, therefore the present submission exclusively aims to raise attention to the problem on a systemic level, without providing specific examples of attempts by economic actors to influence the justice system.

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<sup>1</sup> <https://www.ohchr.org/en/calls-for-input/2024/call-inputs-special-rapporteur-independence-judges-and-lawyers-next-thematic>

## II. THE FINANCIAL SITUATION OF THE HUNGARIAN JUDICIARY IN NUMBERS

The remuneration of judges is critically low in Hungary and requires immediate action to protect the independence of the judiciary. The current situation is not only directly threatening the independence and operability of courts but also incompatible with the separation of powers principle. The low remuneration of judges is a clear political message from the legislative and executive branches, a political answer to the fact that the ruling majority was forced to take meaningful reforms to guarantee the independence of the judiciary to gain access to frozen European Union funds.<sup>2</sup> For this reason, low judicial salaries are widely seen as a retaliatory measure on behalf of the ruling majority against the judiciary for standing up for its own independence. Besides the evident political motive, the financial crisis creates a high risk of improper influences, inducements, pressures, threats or interferences from powerful economic actors.

### II.1. Financial resources of the judiciary in general

Regarding financial resources provided for courts by the state, for 2021, the proposed central budget expenditure was HUF 141,964.5 million (ca. € 396 million).<sup>3</sup> For 2022, the proposed central budget expenditure of the courts was increased to HUF 155,649.5 million (ca. € 422 million).<sup>4</sup> For 2023, the proposed central budget expenditure of the courts was HUF 160,377.3 million (ca. € 418 million).<sup>5</sup> For 2024, the proposed central budget expenditure of the courts was HUF 155,662.4 million (ca. € 406 million).<sup>6</sup> **The above data show that the financial resources of the judiciary show a downward trend, while the annual inflation in Hungary exceeded 24% in 2022 and 17% in 2023.**

### II.2. Remuneration of judges

The salary of Hungarian judges does not commensurate with the status, dignity and responsibility of the judicial office and endangers the independence of the judiciary. The base salary<sup>7</sup> of judges has formerly been raised from gross HUF 507,730 (ca. EUR 1,418) for the year 2021<sup>8</sup> to HUF 566,660 (ca. € 1,538) for the year 2022<sup>9</sup> – but remained at this level both for 2023 and for 2024, despite the extremely high inflation ratio. According to Article 66 of the Act LV of 2023 on the Central Budget, the salary base (“*illetményalap*”) of judges is gross HUF 566,660 (ca. EUR 1,538). This amount serves as the basis for establishing the ground salary (“*alapilletmény*”) of judges and judicial staff by applying a certain multiplier set out by law. The multiplier is established in accordance with the years spent in service as a judge. To this ground salary, further allowances (“*pótlék*”) are added (also calculated on the basis of the salary base and a multiplier) depending on the court level and position where the judge serves.

According to the data recently published by the biggest association of judges, the Hungarian Association of Judges (MABIE)<sup>10</sup>

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<sup>2</sup> <https://helsinki.hu/en/assessment-of-hungarys-judicial-reforms/>

<sup>3</sup> Act XC of 2020 on the Central Budget of Hungary for 2021, Appendix 1

<sup>4</sup> Act XC of 2021 on the Central Budget of Hungary for 2022, Appendix 1

<sup>5</sup> Act XXV of 2022 on the Central Budget of Hungary for 2023, Appendix 1

<sup>6</sup> Act LV of 2023 on the Central Budget of Hungary for 2024, Appendix 1

<sup>7</sup> For reference, from 1 December 2023, the gross minimum wage is HUF 266,800 (ca. € 696) in Hungary.

<sup>8</sup> Act XC of 2020 on the Central Budget of Hungary for 2021, Article 65(1)-(2)

<sup>9</sup> Act XC of 2021 on the Central Budget of Hungary for 2022, Article 65(1)-(2)

<sup>10</sup> <https://www.mabie.hu/index.php/1795-tenyek-a-biroi-berek-osszszeszerusegerol>

- (i) **The initial judicial salary at a district court** (complete, together with all allowances) in Hungary is gross HUF 821,657 (ca. EUR 2060) and net HUF 534,000 (ca. EUR 1340) which equals to net HUF 3,338 (ca. **EUR 8**) per hour.
- (ii) **The initial judicial salary at a regional court** (complete, together with all supplements) in Hungary is gross HUF 934,989 (ca. EUR 2350) and net HUF 610,992 (ca. EUR 1535) which equals to net HUF 3,818 (ca. **EUR 9**) per hour.

The judicial salaries in Hungary are not only the lowest in the whole European Union but also compared to other professions in Hungary. The above amounts can easily be earned as a bus driver, a cashier or a member of the armed forces in Hungary and cannot be in any way considered commensurate with the dignity of the profession and the burden of responsibilities of a judge, and this affects the operability of courts. The underfinancing of the judicial system raises the risk of economic capture by the possibility that judges will seek employment with the same private actors who come before them as litigants or legal representatives, including law firms and private corporations ('revolving doors capture'). Judges may be improperly motivated by incentives related to their career prospects or possibilities to exit the judiciary.

Since 2023, representatives of judges called upon the necessity of a salary increase for judges and court staff.<sup>11</sup> The National Judicial Council (NJC) made a statement to the news media claiming that the "NJC is also aware that the high turnover of judicial staff, due to low salaries, is a threat to the viability of the judicial organisation".<sup>12</sup> In June 2023, the NJC proposed an amendment of the laws that from 1 September 2023 the salaries of both judges and court staff be increased at least in line with the inflation.<sup>13</sup> MABIE in a public statement "drew the attention of the Minister of Justice to the worrying situation in the organisation of the judiciary, which is already threatening the functioning of the courts and the independence of the judiciary"<sup>14</sup>. On 4 January 2024, the MABIE issued another public statement<sup>15</sup> in which it stated that despite the high inflation in the last years, the salaries at courts have not been increased, while salaries in other public sectors have been, which could mean that "not only the functioning of the judiciary but also compliance with the rule of law in the EU is at stake!" and which jeopardizes the material aspect of judiciary independence. On 3 May 2024, the NJC issued a press release urging the raise of the base salary reminding that: "The salary base of judges has remained unchanged since 1 January 2022, and is already lagging behind the average gross national salary by a considerable margin. Since 2010, the minimum wage has increased four and a half times, the average gross national salary three times, while the salary base of judges has increased only one and a half times. For a lasting time, the actual level of remuneration is not commensurate with the dignity of the judiciary and is far from commensurate with the responsibilities of judicial staff."<sup>16</sup>

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<sup>11</sup> "It has been repeatedly mentioned in previous meetings that the salaries of judicial staff, and also of judges, need to catch up, at least to the level of inflation, so that their purchasing power can return to at least the pre-inflation level and reflect the dignity of the tasks and activities carried out in the judiciary and in this profession. Unfortunately, this has not yet been achieved, despite the fact that the NOJ President, the Kúria President and the NJC itself have made requests, appeals and signalled to the decision-makers in this regard." (NJC member Balázs Barkóczy. See the minutes of the NJC's meeting held on 8 November 2023, p. 23., available at: [https://orszagosbiroitanacs.hu/2023-11-08/.](https://orszagosbiroitanacs.hu/2023-11-08/))

<sup>12</sup> <https://rtl.hu/belfold/2023/10/30/birosag-fizetes-igazsagugyi-dolgozok-birok>

<sup>13</sup> Resolution 46/2023. (VI. 7.) OBT

<sup>14</sup> <https://mabie.hu/index.php/1710-a-mabie-ismet-az-igazsagugyi-miniszterhez-fordult-hiaba>

<sup>15</sup> Magyar Bírói Egyesület [Hungarian Association of Judges], *Salary increase for the courts, too!*, 4 January 2024, <https://mabie.hu/index.php/1728-beremelest-a-birosagok-szamara-is>

<sup>16</sup> <https://obt-jud.hu/az-obt-kozlemenye-birak-es-az-igazsagugyi-alkalmazottak-javadalmazasa-targyaban>

### II.3. Remuneration of court staff

Court staff's salary consists of a base salary (that is connected to the judges' base salary) plus potentially a "place of work" supplement (if an employee works at the Kúria, the NJC or the NOJ) or a "title supplement" (that the court, the NJC or the Minister may grant to employees with more than 10 years of work experience). From 1 December 2023, the base salary may not be lower than gross HUF 266,800 (€ 698) and gross HUF 326,000 (€ 853) for posts that require secondary education. According to an NJC member,<sup>17</sup> the salary of a court staff with 35 years of experience is a net HUF 270,000 (€ 706).

The low salaries and the increased workload mean that according to news reports,<sup>18</sup> many people are leaving the judicial system at some courts. A few dozen judges also signed a petition in May 2023 that requested a salary increase for court staff helping their work. According to the 2022 annual report of the President of the biggest Hungarian court, the Metropolitan Regional Court,<sup>19</sup> between 1 January and 31 December 2022 the actual number of judges working at the court decreased by 35 (the allowed number of judges was 764 on 31 December 2022) and the actual number of court staff working at the court decreased by 88 (the allowed number of court staff was 2156 on 31 December 2022).

### III. LACK OF GUARANTEES IN THE LEGISLATION

On the level of legislation, the problem concerning judicial salaries is twofold:

**(1) The first dimension of the problem is that the judicial salaries have not been raised in the past two years and therefore they have lost a great degree of their purchasing power due to the double-digit inflation.** This situation is clearly in contradiction with international standards and the practice of the Court of Justice of the European Union, according to which the remuneration of judges is directly linked to judicial independence, it must be adequate and preclude exposing judges to the risk of inappropriate pressures and corruption.<sup>20</sup> **To resolve this first dimension of the problem, the salary of judges must be raised as soon as possible via the modification of Article 66 of Act LV on the Central Budget to at least raise the salary base of judges so that** it equals at least the purchasing power of the judicial salaries as established from January 2022.

**(2) There is a second layer of this problem on the level of legislation, which is the fact that the financial security of judges and judicial staff is not protected by law against inflation; judicial salaries can easily lose their real value.** This goes also against international standards which require a periodical review of judicial salaries by an independent body so as to overcome the effect of inflation. The Hungarian legislation fully lacks such guarantees in the law. Act CLXII of 2011 on the Legal Status and Remuneration of Judges only contains one single guarantee according to which the salary base should be established on an annual basis by the Act on the Central Budget and the amount cannot be lower than the year before.<sup>21</sup> This is not the first time that judicial salaries are worryingly low. A similarly critical period was the era of the constitutional crisis between the NJC and the former NOJ President in 2018-2019. Without proper legal provisions guaranteeing that judicial salaries cannot lose their

<sup>17</sup> NJC member Balázs Barkóczy. See the minutes of the NJC's meeting held on 8 November 2023, p. 23., available at: <https://orszagosbiroitanacs.hu/2023-11-08/>.

<sup>18</sup> <https://rtl.hu/belfold/2023/05/22/birosag-pest-felmondas-rossz-korulmenyek-alacsony-fizetes>

<sup>19</sup> [https://fovarositorvenyszek.birosag.hu/sites/default/files/field\\_attachment/ft\\_elnoki\\_beszamolo\\_2022.pdf](https://fovarositorvenyszek.birosag.hu/sites/default/files/field_attachment/ft_elnoki_beszamolo_2022.pdf)

<sup>20</sup> See: ASJP case,<sup>20</sup> C-64/16: "the receipt by those members of a level of remuneration commensurate with the importance of the functions they carry out constitutes a guarantee essential to judicial independence" [para. 45]

<sup>21</sup> Article 169(2) of Act CLXII of 2011 on the Legal Status and Remuneration of Judges

purchasing power over time, the executive and the legislature can undermine judicial independence and make it prone to economic or other influence by simply not raising the salary base over the years. **To resolve this second dimension of the problem of judicial salaries, the legislation must be modified and a provision must be included in the law according to which the remuneration of judges must be subject to periodical review by an independent body in a clear procedure and under objective criteria to ensure the real value of judicial salaries in accordance with the dignity of the judicial profession.**

#### IV. RECOMMENDATIONS

**In light of the above facts and legal concerns related to the financial crisis of the Hungarian judiciary, we recommend the Special Rapporteur raise the necessity of proper financing the judiciary in the upcoming report as a guarantee against external influence also highlighting the necessity of a periodical review of judicial salaries to overcome the effect of inflation. Guarantees should be built into the legislation impeding the loss of purchase power of judicial salaries and preventing a situation where judges' salaries are disproportionately low as compared to salaries paid in positions at other branches of power.**

Sincerely yours,



András Kristóf Kádár  
co-chair  
Hungarian Helsinki Committee