



## OSCE Warsaw Human Dimension Conference 2025

### Plenary Session 5: Rule of Law II Independence of the judiciary

10 October 2025

The Hungarian Helsinki Committee (HHC), founded in 1989, is an independent human rights watchdog dedicated to protecting human dignity through legal and public activities. The HHC wishes to draw the attention of the Organisation for Security and Co-operation in Europe (OSCE) to persisting and systemic challenges to judicial independence in Hungary. Judicial independence is a cornerstone of the rule of law and a precondition for the effective protection of human rights. While some legislative changes have been introduced in recent years, core structural deficiencies remain unresolved, and certain developments have further undermined the independence of the judiciary.

#### 1. Judicial remuneration and structural deficiencies

Judicial remuneration in Hungary remains structurally inadequate and fails to ensure independence from the political branches. The Hungarian legislation (i) fails to ensure that judicial salaries are commensurate with the status, dignity and responsibility of the judicial office; (ii) it does not include a corrective mechanism to guarantee the preservation of the real value of judicial salaries; (iii) it does not ensure the separation of powers, as it makes the determination of judicial salaries entirely dependent on the political will of the executive and legislative authorities; and (iv) it is contrary to the requirement of the balance between the branches of powers, as it establishes significantly lower remuneration for judges than for the staff of both the executive and the legislative branch.

The salary base for judges, as of 1 January 2025, is HUF 651,660 (approximately EUR 1,600), following a 15% increase that fell well short of the level required to maintain the real value of salaries and close the gap with other branches of power. There is no automatic, objective, or predictable mechanism to ensure regular adjustments. The determination of salaries continues to depend on the discretion of the executive and legislative authorities, contrary to European standards on the separation of powers and judicial independence.<sup>1</sup>

#### 2. Undermining the direct effect of EU law through uniformity decisions

The uniformity complaint system, in its current form, can be applied to block the binding direct effect of EU law. Uniformity decisions (delivered by Hungary's top court, the Kúria to guarantee the uniformity of the jurisprudence if there are diverging interpretations) shall be deemed as quasi laws within the Hungarian legal system, and therefore, judges and courts are subordinated to them to the same extent as to legal norms. In a uniformity decision delivered in 2021,<sup>2</sup> the Kúria declared that the rulings of the CJEU should not have *erga omnes* effect vis-à-vis third parties. According to the Kúria,

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<sup>1</sup> See also Hungarian Helsinki Committee et. al. 'Selected questions and recommendations for Hungary in the Article 7(1) TEU procedure', October 2025, available at <https://helsinki.hu/en/wp-content/uploads/sites/2/2025/10/Selected-CSO-recommendations-Article-7-Hungary-October-2025.pdf>.

<sup>2</sup> Jpe.II.60.027/2021/8., <https://kuria-birosag.hu/hu/jogegysegi-panasz/jpeii6002720218-szamu-hatarozat>

“decisions of the CJEU in preliminary rulings are only binding on the parties concerned and have relative effect. This means that a decision on the interpretation of EU law does not, as a rule, have *erga omnes* effect beyond the case, nor does it extend to all the parties [in all proceedings].” In line with the above, the Kúria emphasised that if a new interpretation of EU law by the CJEU conflicts with the obligatory interpretation adopted by the Kúria, Kúria judges must request the Kúria to cancel the binding force of its previous uniformity decision,<sup>3</sup> which is in clear violation with the principle of the EU *acquis* as stipulated in the *Costa v ENEL* judgment of the CJEU.

In addition to the above, the Venice Commission found the uniformity complaint system to be in clear violation of the principle of judicial independence and recommended Hungary to modify the uniformity complaint system,<sup>4</sup> because it found that it creates a hierarchical organisation within the judiciary in the sense that it subordinates judges to higher instances in their judicial decision-making activity. In its current form, the uniformity complaint system does not allow lower tier courts to deviate from the uniformity decisions under any circumstances. Once a uniformity decision is taken by the Kúria, it is obligatory to all judges within the system and no deviation is allowed from it, not even by other chambers of the Kúria. A uniformity decision can only be repealed or modified based on the motion of court leaders, making the possibility to deviate from the obligatory interpretation conditional on management decisions. The European Commission’s 2024 Rule of Law Report also raised concerns with respect to the compatibility of the Hungarian uniformity complaint system with the EU law.<sup>5</sup>

The interpretation that Kúria judges must request the Kúria to cancel the binding force of its previous uniformity decisions in case there is a conflict between that and a subsequent CJEU judgment was confirmed by the Kúria concerning the withdrawal of a residence permit of an EU family member and the duty to inform them of the grounds.<sup>6</sup> The Kúria held that adjudicating panels cannot set aside domestic law solely on the basis of a CJEU judgment, and may only deviate from previous interpretations if authorised by the Uniformity Complaint Panel.

There are at least two preliminary references from Hungarian judges before the CJEU regarding the compatibility of the Hungarian law and practice of uniformity decisions with the *acquis*, including Article 267 TFEU.<sup>7</sup> While the authorities in Hungary would obviously have an obligation to abide by Article 4 of the TEU and ensure sincere cooperation with the CJEU, in its current form and under the current judicial practice, the uniformity complaint system is applied by the Kúria to block the direct effect of EU law, which requires appropriate action by the legislature and government to ensure compliance with its obligations under the TEU.

### 3. Weak implementation of the National Judicial Council’s prerogatives

The National Judicial Council (NJC) is the self-governing body of the judiciary with statutory rights to be consulted on draft legislation concerning the justice system. Legislative amendments introduced in

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<sup>3</sup> See: <https://kuria-birosag.hu/hu/sajto/magyarorszag-i-korlatozott-precedens-rendszer-osszhangban-van-az-europai-unio-jogaval>.

<sup>4</sup> European Commission for Democracy through Law (Venice Commission), *Hungary – Opinion on the amendments to the Act on the organisation and administration of the Courts and the Act on the legal status and remuneration of judges adopted by the Hungarian parliament in December 2020*, CDL-AD(2021)036, 16 October 2021, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)036-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)036-e), paras 35-49.

<sup>5</sup> European Commission, *2024 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6\\_en?filename=40\\_1\\_58071\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6_en?filename=40_1_58071_coun_chap_hungary_en.pdf), p. 7.

<sup>6</sup> See Kúria Uniformity Decision no. 3/2025 JEH, <https://kuria-birosag.hu/hu/joghat/32025-jeh-jpeiii60053202412-szam>, related to the CJEU’s NW-PQ judgment, Joined Cases C-420/22 and C-528/22, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62022CJ0420>

<sup>7</sup> C-26/25 and C-285/25

2023 formally ensured this prerogative. However, in practice the Government systematically sends draft laws to the NJC with consultation deadlines so short that meaningful deliberation is impossible. In September 2025, the Constitutional Court rejected an NJC complaint challenging such a deadline, thereby accepting a purely formalistic interpretation that undermines the NJC's role as a safeguard of judicial independence.<sup>8</sup>

#### 4. Chilling effects on judges' freedom of expression

Judges who speak publicly about judicial independence continue to face smear campaigns in government-affiliated media, as well as disciplinary and "integrity" procedures that lack sufficient legal safeguards. There is no legislative protection for judges' freedom of expression, and the applicable Code of Judicial Ethics remains a non-binding soft-law instrument. This creates a chilling effect that discourages judges from engaging in legitimate public debate on matters concerning the judiciary and the administration of justice.<sup>9</sup>

The pressure on judges speaking out publicly in defence of judicial independence is both external and internal. External pressure most often takes the form of smear campaigns in government-affiliated media, recent examples offered by the accusation that the judges protesting against an agreement between the Government and judicial bodies (securing the latter's support for unspecified and potentially problematic future justice reforms in exchange for a promise of future salary raises) are all part of an anti-government political action financed by the "Soros network and Brussels"<sup>10</sup> or a series of defamatory articles (written in relation to one of his adjudicative decisions) on Tamás Matusik, former President of the National Judicial Council and vocal defender of judicial independence.<sup>11</sup>

Besides defamatory publications and statements, retaliation for engaging in debates concerning the justice system and the independence of the judiciary also occurs from within the judicial administration through disciplinary proceedings or integrity procedures.<sup>12</sup> While there are serious problems regarding the regulation of disciplinary proceedings<sup>13</sup> (for instance, it is possible to apply interim measures such as suspension, salary withholding, and restrictions on promotions or bonuses before a final decision is taken, which undermines the presumption of innocence; and hearings are not public, even upon request), integrity procedures (procedures aimed at the protection of the integrity of courts, which are not regulated in a law, but only in an instruction of the National Office for the Judiciary), which may similarly damage a judge's career or reputation, lack even the most fundamental basic safeguards: for example, it is not mandatory to provide the concerned judges with an opportunity to present their stance on the subject matter of the integrity investigation, and it may also happen that they are only informed of the existence of the procedure and its outcome once a conclusion is reached.

The lack of safeguards in these procedures is all the more problematic, because there are no clear norms safeguarding judges' freedom of expression on matters regarding which, according to the *Baka v Hungary* judgment of the European Court of Human Rights, they should be free to publicly take a stance and communicate an opinion. The only instrument offering some space for judicial free expression is the Code of Judicial Ethics, adopted by the National Judicial Council in July 2022, but this

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<sup>8</sup> Constitutional Court, Decision no. IX/1726/2025, 9 September 2025.

<sup>9</sup> Hungarian Association of Judges, Survey on judicial freedom of expression, available at <https://mabie.hu/hirek/kutatasi-jelentes-a-magyar-birak-velemenynyilvanitasi-szabadsagaval-kapcsolatos-egyeb-kerdesekrol>

<sup>10</sup> [https://hvg.hu/itthon/20250430\\_biro-tuntetes-per-tv2](https://hvg.hu/itthon/20250430_biro-tuntetes-per-tv2)

<sup>11</sup> <https://magyarnemzet.hu/belfold/2025/04/pressman-matusik-drog-biro>

<sup>12</sup> See in detail: <https://helsinki.hu/en/presidential-retaliation-critical-opinions-kuria-supreme-court-hungary/>

<sup>13</sup> See in detail: <https://verfassungsblog.de/targeting-disciplinary-courts/>

soft-law text lacks legal enforceability.<sup>14</sup> The Kúria President has even challenged the Code before the Constitutional Court, further discouraging reliance on it.<sup>15</sup> His long record of interpreting the freedom of judicial expression narrowly has consistently reinforced a restrictive climate that deters judges from speaking publicly about laws, the legal system or judicial administration.<sup>16</sup>

## Recommendations

The Hungarian Helsinki Committee calls on the OSCE and OSCE participating States to:

1. **Closely monitor** the situation of judicial independence in Hungary, in line with OSCE human dimension commitments, and engage in dialogue with the Hungarian authorities to address structural deficiencies.
2. **Urge the Government of Hungary** to introduce a structured, objective and automatic mechanism for adjusting judicial remuneration, in line with European standards, to safeguard judicial independence.
3. **Call on the Government of Hungary** to amend legislation to ensure that Hungarian courts can apply binding judgments of the CJEU without the approval of Kúria
4. **Urge the Government of Hungary** to guarantee the effective operation of the National Judicial Council's consultative prerogatives by introducing minimum deadlines proportionate to the complexity of legislative proposals.
5. **Encourage the Government of Hungary** to guarantee judges' freedom of expression through binding legislation and to reform disciplinary and integrity procedures to include adequate safeguards and protections against retaliation.
6. **Urge the Government** to fully implement the judgments delivered by the European Court of Human Rights and the Court of Justice of the European Union with regard to Hungary without delay.

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<sup>14</sup> Available on the National Judicial Council's website: <https://birosag.hu/obt/birak-etikai-kodexe>

<sup>15</sup> See on the Constitutional Court's website:  
<https://alkotmanybirosag.hu/ugyadatlap/?id=B1E83AFC8B10B1D2C125885B005B3B7E>

<sup>16</sup> See the HHC's Rule 9.2 Communication to the Committee of Ministers of the Council of Europe regarding the Baka v Hungary case, 22 April 2024, available at [https://hudoc.exec.coe.int/eng?i=DH-DD\(2024\)487E](https://hudoc.exec.coe.int/eng?i=DH-DD(2024)487E).