



Hungarian Helsinki Committee

## PREVENTING AND SANCTIONING POLICE ILL-TREATMENT IN HUNGARY: SYSTEMIC DEFICIENCIES AND THE WAY FORWARD

*Summary brief  
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Along the years, the **European Court of Human Rights (ECtHR)** has found in multiple cases that **Hungary had violated the prohibition of torture when failing to carry out adequate and effective investigations into allegations of ill-treatment by police officers**. The “complex and long-standing nature of the problems raised” in the respective judgments led the Committee of Ministers of the Council of Europe, in the framework of supervising the execution of ECtHR judgments, to [transfer](#) the respective *Gubacsi v. Hungary* group of cases to the so-called enhanced procedure in 2018. The first application in the group of cases is from 2007, while the last one is from 2016.

The *Gubacsi* group of cases will be on the Committee of Ministers’ agenda again between 29 September and 1 October 2020. In the [action reports](#) submitted ahead of that meeting, the Hungarian Government claimed that it had executed the judgments. However, the Hungarian Helsinki Committee (HHC) is of the view that this is not the case: in fact, the **Hungarian Government continues to fail to address systemic deficiencies** in how the Hungarian criminal justice system handles ill-treatment and torture by the police, **limiting the possibilities of preventing ill-treatment and adequately investigating** ill-treatment allegations. As a consequence, latency is high, **very few reports of ill-treatment result in the pressing of charges** (between 2014 and 2018, only 2.5 to 4% of the procedures launched annually for ill-treatment in official proceeding resulted in an indictment), and **the conviction rate of the prosecution is lower in ill-treatment cases than the average** annual prosecutorial success rate. Even if they happen to be convicted for ill-treatment, law enforcement officers receive relatively **mild sentences**.

The HHC’s attorneys have [represented](#) applicants successfully before the ECtHR in relation to ill-treatment by the police in several instances, including applicants in the *Gubacsi* group of cases. Based on our cases and the extensive researches we have conducted, we believe that in order to prevent, investigate and sanction police ill-treatment adequately and more effectively, Hungary should address outstanding deficiencies in the following key areas:

1. As also shown by the ECtHR judgments, it is a recurring issue in Hungary that **investigations** into police ill-treatment, **conducted by the prosecution service, are not effective**. Shortcomings identified in this regard include not hearing the victim, the suspected police officers or witnesses; the lack of genuine efforts by the authorities and/or the courts to resolve contradictions between testimonies and medical reports, etc. Therefore, steps should be taken to **enhance the efficiency of investigations** into ill-treatment cases, in order to decrease the number of procedures where the investigation is terminated and the case is closed without indictment due to the lack of evidence, e.g. by issuing **protocols to follow** in related criminal procedures and **training**.
2. Under the current rules, the Minister of Interior is entitled under certain circumstance to “restore” the eligibility of law enforcement officers convicted for committing a crime, and so to allow e.g. police officers to continue their work even if they were convicted for ill-treatment and sentenced to suspended imprisonment. This goes against the requirement of delivering a “firm message of zero tolerance of ill-treatment” as [required](#) by the Committee of Ministers. Accordingly, **the legal framework pertaining to the eligibility of police officers** convicted and sentenced to suspended imprisonment should be **revised**, and it should be ensured that officers convicted for ill-treatment in official proceeding or coercive interrogation cannot continue their service.
3. Recording interrogations and police measures more widely could highly contribute to the efficiency of investigating allegations of police ill-treatment and would also prevent such incidents. Therefore, **all police vehicles** should be **equipped with operational image and sound recording devices**, and the number of police **body cameras** should be increased progressively. (As of March

2020, only 5% of all police vehicles were equipped with operating cameras, and there were only 70 body cameras in the whole country.)

4. It should be ensured by law that **installing recording devices in all police detention facilities** is **obligatory**, and that recordings are stored for an adequate period of time. The lack of such a legal obligation resulted that as of February 2020, there were only 114 cameras recording in the 297 custody suites in the country.
5. The scope of instances where the **video recording of interrogations** of defendants and witnesses is **obligatory** should be widened, video recording the interrogation upon the request of the interrogated person should be free of charge, and it should be prescribed that the police shall inform persons to be interrogated that they can motion the video recording of their interrogations.
6. It should be ensured by law that whenever a person detained by the police presents injuries upon medical examination and makes allegations of ill-treatment, they are promptly **examined by an independent doctor with training in forensic medicine** who should draw conclusions as to the degree of consistency between the allegations of ill-treatment made by the detained person and the objective medical findings. It should be **obligatory to take photographs** of injuries.
7. **Training** should be provided to physicians and criminal justice stakeholders on the UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ([Istanbul Protocol](#)).
8. As opposed to the current situation, it should be ensured by law that police officers may be present at the medical examination of detainees only under special circumstances, i.e. it should be ensured that **medical examinations** (whether they are carried out in police establishments or in hospitals) are **conducted out of the hearing and** – unless the health-care professional concerned expressly requests otherwise in a given case – **out of the sight of staff with no health-care duties**.
9. **Detainees who claim that they have been ill-treated should be protected** e.g. by transferring them to another police holding facility.
10. Pressures on police flowing from staff shortage, fluctuation and how their performance is assessed can contribute to police officers using violence. Therefore, the current **performance assessment system of the police should be revised**: its statistical approach should be lightened, and more emphasis should be placed on factors such as crime prevention and the public's trust in the police.
11. It should be ensured that adequate, operational training sessions are devoted to the issue of human rights in the course of the training of police officers. In order to help to achieve that they are less focused on confessional evidence, police officers should be provided with training on **investigative (non-coercive, non-accusatory) interviewing techniques**, such as the [PEACE](#) model.
12. If courts consistently exclude evidence obtained by torture, that carries the message to the police that ill-treatment has consequences. Accordingly, steps should be taken – such as the inclusion of the issue into judicial training – to ensure that the **rules on exclusion of evidence obtained by torture are applied properly by the courts**. It should be made explicit in the law that judges can exclude such evidence even if there is no separate criminal conviction establishing ill-treatment.
13. It should be ensured that the **National Preventive Mechanism under the OPCAT** (the Ombudsperson of Hungary) adequately **monitors the application of procedural torture prevention safeguards**, such as the right of access to a lawyer, the right of access to a doctor, the right to notify a relative or third party, and the right to information on rights.
14. Finally, it should be ensured that the authorities **collect the data necessary to assess the implementation of the judgments** in the *Gubacsi v. Hungary* group of cases.

Based on the scope and nature of the outstanding deficiencies as described above, the HHC respectfully recommended the Committee of Ministers to **continue examining the execution of the judgments** in the *Gubacsi v. Hungary* group of cases **under the enhanced procedure**.

For more details, see the Hungarian Helsinki Committee's [communication](#) submitted to the Committee of Ministers in relation to the *Gubacsi v. Hungary* group of cases in April 2020.