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Meeting: 1514<sup>th</sup> meeting (December 2024) (DH)

Item reference: Action Plan (03/10/2024)

Communication from Hungary concerning the group of cases of GUBACSI v. Hungary (Application No. 44686/07)

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Réunion : 1514<sup>e</sup> réunion (décembre 2024) (DH)

Référence du point : Plan d'action (03/10/2024)

Communication de la Hongrie concernant le groupe d'affaires GUBACSI c. Hongrie (requête n° 44686/07)  
**(anglais uniquement)**

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**Revised Action Plan of 3 October 2024  
in the Gubacsi v. Hungary group of cases**



**List of applications concerned:**

**Gubacsi v. Hungary** (Appl. No. 44686/07, judgment of 28/06/2011, final on 28/09/2011)

**Nagy v. Hungary** (Appl. No. 43441/15, judgment of 26/05/2020, final on 26/05/2020)

**Pósa v. Hungary** (Appl. No. 40885/16, judgment of 07/07/2020, final on 07/10/2020)

**Csúcs v. Hungary** (Appl. No. 75260/17, judgment of 15/04/2021, final on 15/04/2021)

**Mata v. Hungary** (Appl. No. 7329/16, judgment of 07/07/2022, final on 07/07/2022)

**R.B. v. Hungary** (Appl. No. 48444/18, judgment of 19/01/2023, final on 19/01/2023)

**Lózay v. Hungary** (Appl. No. 40246/19, judgment of 15/02/2024, final on 15/02/2024)

**Introductory case summary**

1. The Gubacsi v. Hungary group of cases concerns ill-treatment (between 2000 and 2017) by law enforcement officers during the applicants' arrest, transfer and detention, and lack of effective investigations, including failure to investigate possible racist motives for ill-treatment, and violations of the right to life in the same context (substantial and/or procedural violations of Articles 2, 3, and 14 in conjunction with Article 3). The issue under Article 14 is examined in the context of the Balázs group (No. 15529/12).
2. Major shortcomings identified by the Court in finding violations of the procedural limb of Article 2 or 3 included: failure to hear the applicant, the suspected police officers and/or all other witnesses; lack of face-to-face confrontation; lack of genuine efforts by the investigating authorities and/or the competent courts to establish the chronology of the events and to resolve contradictions between different testimonies or between testimonies and medical reports; lapse of time in obtaining testimonies; absence of the police medical report sheet; destruction of the uncut version of the arrest videorecording after the thirty-day statutory storage period; and, lack of judicial review of the decision to discontinue investigations.

**I. Individual measures**

*a) Just Satisfaction*

3. In the case of *Gubacsi v. Hungary*, the just satisfaction awarded to the applicant in respect of pecuniary and non-pecuniary damage EUR 10,500 and in respect of costs and expenses EUR 3,750 converted to HUF 4,327,328 (1 €= 306,83) and paid due in time on 23 December 2011.

4. In the case of *Nagy v. Hungary*, the just satisfaction awarded to the applicant in respect of non-pecuniary damage EUR 10,000 and in respect of costs and expenses EUR 3,150 converted to HUF 4,536,619 (1 €= 344,99) and paid due in time on 11 August 2020.
5. In the case of *Pósa v. Hungary*, the just satisfaction awarded to the applicant in respect of non-pecuniary damage EUR 7,000 and in respect of costs and expenses EUR 2,000 converted to HUF 3,249,090 (1 €= 361,01) and paid due in time on 8 December 2020.
6. In the case of *Csúcs v. Hungary*, the just satisfaction awarded to the applicant in respect of non-pecuniary damage EUR 5,000 and in respect of costs and expenses EUR 3,600 converted to HUF 3,343,500 (1 €= 349,30; the amount of HUF 339,520 tax was included in the total sum) and paid due in time on 27 May 2021.
7. In the case of *Mata v. Hungary*, the just satisfaction awarded to the applicant in respect of non-pecuniary damage EUR 19,500 and in respect of costs and expenses EUR 5,000 converted to HUF 10,380,650 (1 €= 423,70) and paid due in time on 06 October 2022.
8. In the case of *R.B. v. Hungary*, the just satisfaction awarded to the applicant in respect of non-pecuniary damage EUR 25,000 and in respect of costs and expenses EUR 4,500 converted to HUF 11,212,655 (1 €= 380,09) and paid due in time on 28 February 2023.
9. In the case of *Lózay. v. Hungary*, the just satisfaction awarded to the applicant in respect of non-pecuniary damage EUR 4,000 and in respect of costs and expenses EUR 3,000 converted to HUF 3,073,313 (1 €= 393,51) and paid due in time on 24 April 2024.

*b) The possibility of (re)initiating disciplinary proceedings in the cases below*

10. The question of the conduct of proceedings is regulated by the Criminal Procedure Code (hereinafter referred to as: "the Code of Criminal Procedure"). According to Article 400 of the Code of Criminal Procedure, the prosecution office or the superior prosecution office may order the continuation of proceedings terminated by the prosecution office, either ex officio or upon a complaint. The court may order the continuation of the proceedings on the motion of the prosecution service if the proceedings against the defendant have been terminated by the prosecution service pursuant to § 398 (1) a) to f) or § 398 (2) a), c), d) or e) of the Code of Criminal Procedure and the proceedings have not been continued ex officio or upon a complaint within six months of the termination of the proceedings. In the cases listed above, the court may order the continuation of the proceedings if new evidence or circumstances have come to light in the case, if false or falsified means of evidence have been used, or if the prosecution service or a member of the investigating authority has breached his or her duty in a manner contrary to the Criminal Code.
11. However, in six cases (*Nagy, Pósa, Csúcs, Mata, R. B.* and *Lózay*) the statute of limitations have expired, so there is no possibility to continue the criminal proceedings. It is worth pointing out that an application to the European Court of Human Rights, proceedings pending before the

Court or a judgment of the Court does not interrupt the limitation period. Pursuant to Article 184 (1) and (3) of Act XLII of 2015 on the Service Status of the Professional Staff of Law Enforcement Corps, disciplinary proceedings cannot be initiated in relation to the above-mentioned cases due to the statute of limitations either.

*c) On claiming damages other than just satisfaction*

8. Examining the cases above, it can be noted that the Court considered the exhaustion of remedies relating to criminal proceedings to be the admissibility condition (exhaustion of all domestic remedies) under Section 35 (1) of Act XXXI of 1993 on the promulgation of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, and the eight Additional Protocols thereto. In all cases, it was pointed out as a matter of principle that a supplementary private prosecution did not constitute a remedy to be exhausted. In none of the cases did the judgments contain a finding that a civil law damage claim was made.
9. On the basis of the rules on statute of limitation and rules regarding expiration of claims described in general measures point 4., and taking into account the below described dates of the police actions giving rise to compensation (occurrence of damage), it can be concluded that the statute of limitation period has expired in:
  - 43441/15 Nagy v Hungary on 2 May 2012;
  - 48885/16 Pósa v Hungary on 3 October 2011;
  - 75260/17 Csúcs v Hungary on 25 June 2016;
  - 7329/16 Mata v Hungary on 8 September 2014.
10. In the absence of a permanent disability, the claims are time-barred and can no longer be enforced in court [Section 6:23 of the Civil Code].

## **II. General measures**

### **1. Legislative measures**

11. Visual or audio recording of a procedural act may be made in cases specified by the law and, upon statutory authorisation, based on the investigating authority's *ex officio* decision, or upon the request to that effect of the entitled persons.

#### **1.1. Act No. XXXIV of 1994 on the Police Service**

12. The basic rules on making visual recordings, audio recordings or visual and audio recordings in relation to police measures or the performance of service duties by the police are specified in sections 42-42/A of Act No. XXXIV of 1994 on the Police Service (hereinafter referred to as: "the Police Act").

13. Under section 42(1) of the Police Act, *"in connection with a police measure or the performance of a service duty, the police may make visual recordings, audio recordings, or visual and audio recordings (hereinafter referred to as: "recordings") of the person affected by the measure, of his/her surroundings, and of the circumstances and objects that are relevant for the police measure."*
14. Since recording is not mandatory under the above Police Act provision, it is basically the police officer who decides whether to place a video or audio recorder at a location and to record what happens there.
15. The detailed rules governing the making of visual recordings, audio recordings and visual and audio recordings by the police - including the detailed rules on the devices to be used in service vehicles and on the use of body cameras -, and the data protection and data security provisions regulating the processing and use of the recordings are set out in *Instructions No 15/2022 (IV. 7.) ORFK (National Commander of the Police Service) on Certain Rules on the Making of Visual Recordings, Audio Recordings, and Visual and Audio Recordings*.
16. According to section 42(6) of the Police Act, recordings made by the police and the data in the recordings may only be used in criminal proceedings or regulatory offence proceedings or other official proceedings, or in the performance of such duties by the Police Service or the National Tax and Customs Administration in respect of which confidential information gathering is possible. In addition to the above, recordings made by the police may only be used for the performance of the statutory tasks of the national security services, for the identification of a wanted person or object, for the examination of the lawfulness of a police measure in administrative proceedings, for the exercise of the rights of the person concerned, or for establishing the person's identity.
17. Under section 42(9) of the Police Act, if the recordings made by the police are used in the above-mentioned procedures, the rules of the respective underlying procedure shall apply to the processing of data.
18. Recordings made by the police in the lobby of the premises where the persons brought to the police station are held or in the area of the police holding facilities shall be deleted three working days after the recording, provided that they are not needed in the procedures specified in section 42(6) of the Police Act or for other purposes specified therein.
19. In order to ensure the availability of the data and information needed for the initiation and conduct of regulatory offence proceedings or criminal proceedings, the police may, if the data or information indicating the commission of an act emerge within the period specified in the Police Act, extend the time limit for the processing of the recorded data by the data controller for a maximum of thirty days. If within that period no regulatory offence proceedings or criminal proceedings necessitating the use of the data are instituted, the data shall be erased without delay.

## 1.2. Act No. XC of 2017 on Criminal Procedure

20. Following the entry into force of Act No. XC of 2017 on Criminal Procedure on 1 July 2018, the possibility for the investigating authority to record various procedural acts by visual recording, audio recording or continuous visual and audio recording has been retained, and in several instances the making of recordings is even an obligatory requirement. Hence in such instances the use of visual recording, audio recording or continuous video and audio recording is given precedence in documenting a procedural act.
21. Under the Code of Criminal Procedure and under *Instructions No. 41/2018. (VII. 11.) ORFK on the Rules Governing the Use of Technical Devices for Making the Visual and Audio Recordings Specified in the Act on Criminal Procedure* (hereinafter referred to as: "the Instructions"), in certain cases the recording of the procedural acts by visual recording or audio recording or visual and audio recording is mandatory. These cases are the following:
- a) a procedural act requiring the participation of a person under the age of fourteen [section 88(1)d) of the Code of Criminal Procedure]
  - b) if the victim of a criminal offence against sexual freedom and sexual morality has not attained the age of eighteen years [section 89(4)(b) of the Code of Criminal Procedure];
  - c) if a telecommunication device is used [section 125(2) of the Code of Criminal Procedure].
22. If it is necessary for the purpose of proving a fact and if samples are not to be taken, in the event of the sale, confiscation or destruction of the seized object, visual recording or visual and audio recording shall be made of the object proving beyond doubt, at a later stage of the proceedings, the essential characteristics of the object [section 319 (7) and section 320 (5) of the Code of Criminal Procedure].
23. According to point 11 of the Instructions, in addition to the provisions of section 88(1)(d), section 89(4)(b) and section 125(2) of the Code of Criminal Procedure, continuous visual and audio recording shall also be made:
- a) of a seizure, if the seized object is left in the custody of the person concerned or is placed in the custody and control of certain bodies;
  - b) of the seized object, in the event it is sold, destroyed or confiscated, sample taking is not conceivable, and the taking of an image of the seized object cannot, in itself, reflect its essential characteristics;
  - c) of a procedural act involving a person unable to read and write;
  - d) if the suspect affected by the procedural act or his/her counsel or the aggrieved party has made a request to that effect, provided that he/she has advanced the costs, and the specialised agency of jurisdiction responsible for economic matters has confirmed that fact;

e) in any other case where the law so provides or where the individual decision of a person authorised under the law to give instructions in relation to the performance of a procedural act orders the person in charge of the conduct of the procedural act to do so.

24. In addition to the cases of compulsory recording, the member of the authority conducting a procedural act may, *ex officio*, order to make visual and audio recording of the procedural act.
25. Under section 358(4) of the Code of Criminal Procedure, upon the motion of the suspect, the defence counsel, or the aggrieved party, a procedural act shall be recorded in the above specified manner if the arising costs are simultaneously advanced by the motioner.
26. If the requisite technical devices are available, recordings shall also be made in case of an advance payment effected within 5 days before the taking of the procedural act. However, due to the limited number of the available technical devices, in determining the motion for recording preference shall be given to the statutorily mandatory cases of recordings over the request for recording made in the motion, but solely for reasons of work organisation and logistics, and by meeting the procedural rules, in particular the requirement of timeliness.
27. Moreover, the Code of Criminal Procedure also regulates a special case of visual and audio recording in relation to procedural acts carried out by means of telecommunication, when connection between the place of the procedural act and a different place, and hence the 'presence' of the person concerned by the proceedings, is ensured via telecommunication. The court, the prosecutor's office, or the investigating authority may order the use of a telecommunication device *ex officio*, or upon the request of a person obliged or entitled to be present at the procedural act. Communication between the places can be ensured through the transmission of the visual and audio recording, or the continuous audio recording (sections 120-121 of the Code of Criminal Procedure).
28. If the technical requirements for using a telecommunication device are met, the prosecution service and the investigating authority shall not, save for the exception made in the Code of Criminal Procedure, refrain from using such a device
- a) in case of a procedural act requiring the attendance of an aggrieved party in need of special treatment,
  - b) in case of a procedural act requiring the attendance of a witness or defendant who is detained, or is under personal protection, or is covered by a Protection Programme (section 122 of the Code of Criminal Procedure).
29. The Code of Criminal Procedure also specifies further rules in relation to procedural acts carried out via means of telecommunication. For example, it provides that on such procedural acts minutes shall be taken, in which the following shall be recorded:
- a) the fact and manner of using a telecommunication device,
  - b) the identity of the person whose attendance is ensured via the telecommunication device,
  - c) the address of the place where this latter person is residing,

*d)* the name of the other persons also present at this latter place and the capacity in which they attend the procedural act.

30. If a telecommunication device is used, the recording must be filed (section 125 (1)-(2) of the Code of Criminal Procedure).
31. The primary purpose of the use of a telecommunication device is to speed up the proceedings, to ensure the protection of the persons concerned and, in case of detained persons, to reduce the security risk during the procedural acts in which they are involved. Continuous visual and audio recording made simultaneously from several camera positions helps to ensure the accurate documentation of the progress of the given procedural act.
32. The details of the police investigation authorities' related practice are set out in the Instructions. According to the provisions of the Instructions, the summons to or notification of a procedural act shall include information on the possibility of making a recording and on the conditions for assessing a motion to that effect (point 23 of the Instructions).
33. The provision of this information prior to the taking of the procedural act is particularly important since the costs of the recordings are to be advanced by payment to the appropriation framework account indicated by the specialised agency responsible for economic matters of the territorial body having jurisdiction at the place of registration of the stand-alone technical equipment used in the recording or, if built-in technical equipment is used, by the specialised agency responsible for economic matters of the territorial body having jurisdiction at the place of the body conducting the proceedings. Payments made into the appropriation framework account linked to the investigation authority shall immediately be notified to the bodies concerned by the person designated by the head of the specialised agency responsible for economic matters, who shall confirm the payment of the amount receivable in the general financial maintenance interface. Information on payment performance shall be provided and the fact of payment shall be confirmed, on the basis of the payment reference (points 24 to 26 of the Instructions). Information on advance payment shall also be provided during the procedural act, and the provision of this information shall be recorded in the minutes taken on the procedural act, but the provision of this information is only effective if the person concerned is aware of it before the procedural act is taken so that he/she can take the necessary actions. The provisions of the Instructions meet this necessary condition.
34. The storage period of the visual and audio recordings of criminal procedural acts is the same as the storage period of the investigation file, since recordings form part of the investigation file.

## **2. As regards the availability of video recording**

35. In 2018, 70 body cameras were purchased for the traffic police branch from the budget of the National Accident Prevention Committee of the National Police Headquarters.



36. According to data as of 15 May 2024, the Police use 8,270 vehicles, of which 6,703 are regular service road passenger cars, off-road passenger cars and minibuses. **681 vehicles are equipped with image recording equipment**, of which 620 are operational.
37. **69% of police detention and arraignment facilities** are equipped with image recording devices (data from December 2023). In total, the shared areas, corridors and 405 arraignment units/rooms of the 20 operational detention centres are equipped with such devices.
38. **The traffic policing field have 173 body cameras**, of which 143 are operational. In October 2023, **an additional 130 body cameras were purchased** to support border policing and crowd control activities that can also be used for other law enforcement tasks.
39. Based on previous positive experience, it is planned to purchase additional body cameras, subject to budget availability. The objective is to have an in-vehicle recording camera installed in all patrol cars, and to have at least 1 body camera in every police station, to be worn by patrol officers on duty.
40. As can be seen from the above, both the number of body cameras and the number of cameras installed in police premises and cars have increased.

### **2.1. Body cameras of the Budapest Metropolitan Police Headquarters**

41. The Budapest Metropolitan Police Headquarters have 75 body cameras in use. Body cameras are mainly used for public order and traffic policing tasks, as well as during securing events.
42. The cameras are mainly used by the so-called “first responding” units when performing public order tasks, under the control of the Dispatch Centre. They are also used during event securing tasks and in traffic enforcement operations and checks.
43. According to the experience gained so far, the use of body cameras facilitates police measures, and the presence of the cameras and the fact that they were recording did not disturb either the police officers or the persons subject to the police measure. Persons subject to the measure are more cooperative being aware of the use of the camera (they are made aware of this by the police officer at the beginning of the measure), the cameras motivate citizens to comply with the law during the police measure – in most cases – and police officers to be more committed to conduct lawful, professional and civilised measures. A further advantage of the use of cameras is that their recordings can be used for the evaluation and analysis of certain measures (incidents), for training and education in police tactics, and for conducting an evidentiary procedure in minor offence or criminal proceedings.

### **3. Medical examination before placement in a police holding facility**

44. The medical examination preceding a person's placement in a police holding facility is carried out by a health care provider in a civilian health care institution, where there is a risk of the doctor being assaulted in the event of the person's absconding or aggressive behaviour, and

where the person's aggressive behaviour may frustrate the examination, whose results may be of decisive importance. Police presence is also requested by the civilian health care providers, given that the doctor has no right to use coercive measures, if necessary.

45. When examining a detainee, the doctor is obliged to record any external signs of injury, that is, to issue a medical report whose main purpose is to rule out, or establish, whether or not a possible ill-treatment or injury occurred during or before the period of detention, and precisely when it could have occurred. If needed, the doctor shall refer the detainee to be detained for further examination.
46. The right to health, including the right to consult a doctor, is a fundamental right, and the obligation to undergo a medical examination is a guarantee for the respect of that right.
47. Section 15 of *Decree No. 56/2014 (XII. 5.) BM on the Rules of Police Holding Facilities* (hereinafter referred to as: "Holding Facilities Decree") contains the rules governing the placement of detainees in police holding facilities and the handling of complaints of ill-treatment. *Instructions No. 3/2015 (II. 20.) ORFK on Service Regulations Relating to Police Holding Facilities* (hereinafter referred to as: "Service Regulations") set out in detail the measures to be taken when external signs of injury are perceived during a person's admission in a police holding facility.
48. If, during the admission process in a police holding facility the police officer examining the documents required for the admission of a person perceives the absence of the preliminary medical examination, or if there is a suspicion that the state of health of the person to be admitted differs from the findings of the preliminary medical examination, in particular with regard to external signs of injury, the police officer shall suspend the admission process and shall take the necessary measures (notification of the competent activity management centre, notification of the issuer of the admission order). The medical opinion is, in all cases, attached to the order in a sealed envelope (Service Regulations, points 51-51/B).
49. The police authority has no possibility to review the medical records issued by the health care provider in relation to the medical care provided for the detainee under *Act No. CLIV of 1997 on Health Care*.
50. If any detainee makes a report or complaint to a staff member of the Police Service in connection with an injury or for any other reason, the police officer is obliged to report the matter to his/her superior commanders, who will take the necessary measures to conduct an investigation and provide medical care to the detainee, as provided for in *Act No. CCXL of 2013 on the Execution of Penalties, Measures, Certain Coercive Measures and Regulatory Offence Detentions*.
51. The Government do not consider it appropriate to establish a separate independent medical examining body, as the doctors who carry out the medical examinations are, anyway, independent. In any case, the doctor has the possibility to order the further examination of an

"ill-treated detainee" if he considers that the statements made by the detainee and the circumstances of the case do not correspond to the external signs of injury.

#### **4. On claiming damages other than just satisfaction awarded by the European Court of Human Rights and the possibilities provided by domestic law in this area**

##### *a) Grievance award*

52. Pursuant to Section 2:42 (2) of Act V of 2013 on the Civil Code (hereinafter referred to as: Civil Code), the rights of the person are protected by the Civil Code; everyone is obliged to respect human dignity and the personal rights deriving from it. The individual rights of the person, including the rights to life, physical integrity, health, personal liberty, discrimination and the rights to honour and reputation, are set out in Section 2:43 of the Civil Code.
53. In the case of violation of personal rights, the person concerned may - within the limitation period - apply for sanctions irrespective of fault pursuant to Section 2:51 of the Civil Code, while pursuant to Section 2:52 of the Civil Code he/she may claim grievance award (in Hungarian: "sérelemdíj").
54. Conditions of the obligation to pay grievance award, and in particular the identification of the person who is under the obligation to pay and the ways of exculpating him, shall be governed by the rules on liability for damages, with the proviso that, apart from the fact of the violation, there is no need to prove further loss. Section 2:53 of the Civil Code provides that a person who suffers damage as a result of an infringement of his personal rights may claim compensation from the infringer for the damage caused by the infringement in accordance with the rules of liability for unlawful damage.

##### *b) Compensation*

71. According to the general rule on liability for torts provided by Section 6:519 of the Civil Code, a person who unlawfully causes damage to another is liable to pay compensation; the person causing the damage may be exempted from liability if he/she proves that his/her conduct was not attributable to his fault.
72. The special provisions on liability for damage caused in the exercise of public authority include the rules on liability for damage caused in the course of exercising of administrative authority and also the rules on liability for damage caused in the exercise of judicial, prosecutorial, notarial and executive authority [Civil Code, Sections 6:548 and 6:549].
73. Accordingly, the claim for damages shall be brought against the public authority exercising public power; in the case of a court, if the court is not a legal person, against the court whose president exercises general employer's powers in respect of the judges of the non-legal person court; whereas in the case of damage caused in the exercise of prosecutorial powers, the claim shall be brought against the Prosecutor General's Office. The general precondition for such

action for damages is the exhaustion of the ordinary remedies provided for by the relevant procedural system.

74. According to consistent case-law, liability for damage caused by the exercise of official authority may be established in the case of a manifest and flagrant infringement.
75. Pursuant to Section 6:22 (1) of the Civil Code, the general limitation period is five years, and according to Subsection (2) the limitation period begins to run when the claim becomes due. According to Section 6:532 of the Civil Code, compensation is due immediately upon the occurrence of the damage, whereas according to Section 6:533 (1) of the Civil Code, the rules on statute of limitation apply to damages, with the exception that in the case of damage caused by a criminal offence, the claim is not time-barred until the criminal liability for the offence has expired, even the general five-year-limitation expires.
76. In general, therefore, it can be concluded that the domestic legal order provides an adequate opportunity for the victim of a violation of his or her personality rights to claim damages and grievance award, irrespective of the just satisfaction awarded by the ECtHR.
77. Pursuant to Section 20 (1) and Section 20 (3) (a) (ab) of Act CXXX of 2016 on the Code of Civil Procedure (hereinafter referred to as: the CP Code), the lawsuit falls under the jurisdiction of the high courts (in Hungarian: “törvényszék”), so in the course of the litigation commenced on or after 1 January 2018 legal representation is mandatory pursuant to Sections 72 (1) and (2) of the CP Code. Pursuant to Section 11 (1) of Act LXXX of 2003 on Legal Aid, the State shall provide legal representation for the plaintiff in civil proceedings requiring professional legal assistance, who is deemed to be indigent, and shall advance or bear the costs thereof on behalf of the party.

## **5. Training and awareness raising activities**

### **5.1. Trainings provided to patrolling officers, low-ranking officers and police commanders, with a particular accent on the new curriculum that has been reportedly introduced for low-ranking police officers**

78. At the daily briefings for the professional staff performing service in public areas as members of the public order branch, the traffic police branch, the border police branch or the criminal investigation branch of the Police Service (hereinafter referred to as: "police staff performing service in public areas"), the commanders pay special attention to the statutory provisions and the provisions of the legal instruments of state administration relating to the restriction of personal liberty, the use of coercive measures, and the investigation by the commanders of the use of coercive measures.
79. The briefings also draw attention to the rules specifying the obligations related to the prohibition of torture, coercive measures and cruel, inhuman or degrading treatment, as set out

in Instructions No 22/2010 (OT 10) ORFK on the Implementation of the Recommendations of the Council of Europe's Committee for the Prevention of Torture (CPT).

80. The briefings for police staff performing service in public areas place great emphasis on the requirements of objectivity, differentiation, impartiality and a cultured, helpful approach, as well as non-discrimination and non-prejudicial policing.
81. The National Police Headquarters have not provided central training on proceedings related to police ill-treatment. The regional bodies conduct their own trainings independently.
82. Based on the two-year long programme (which is one-and-a-half year long in case of previous qualification) elaborated for the post-secondary vocational training of professional police officers, the following topics are taught and discussed in the following modules:
- a) general knowledge relating to the service: ethical principles of the law enforcement profession, rules of conduct of police officers on and off duty;
  - b) society and communication: ethics in law enforcement, the Code of Ethics of the police profession, professional conduct of a police officer, prohibition of cruel, inhuman or degrading treatment in police work, types of police corruption, prevention, impact on the public perception of the profession;
  - c) public order: tasks related to the prevention and repression of acts of police corruption, general rules of disciplinary liability, purpose of discipline, general rules of disciplinary proceedings;
  - d) criminal law: ill-treatment in official proceedings, forced confession, unlawful detention.
83. The modules in the specialised training programmes for public security police patrol officers and border police and passport control officers also contain elements relating to the subjects raised in the request. The module of social and communication skills (10 training hours), which forms part of the basic training of the approved training programme, discusses the following subjects:
- a) Social studies (the police profession; the importance of empathy, helpfulness and tolerance in our society, with special regard to policing);
  - b) The role of psychology in policing (the development of skills important to the policing profession, awareness and perception, attention, memory, imagination, thinking; emotions and expressions of emotions; the effects of emotions on the assessment of a situation, on forming judgments, on attention, learning and working; frustration, aggression; the role of emotional intelligence in coping with stressful situations, the possibilities of its development, its importance in developing a high-quality police culture; sources of stress in police work; stress management techniques);

- d) Law enforcement ethics (Code of Ethics of the police profession; professional conduct of the police officer; Code of Ethics of the Hungarian Law Enforcement Corp; types of police corruption, prevention, impact on the social image of the profession);

84. As part of the training on co-patrolling, the following topics are discussed in the module on social and communication skills (50 training hours):

- a) Communication of police actions (body language/posture, space, verbal communication/; communication and meta-communication; situational exercises; appropriate communication during actions with persons of different gender, age, social status, etc.; observation and correct interpretation of verbal and non-verbal communication signals; perception of persons; communication in crisis situations; reporting of death, communication in case of intended suicide; situational exercises)
- b) Multicultural knowledge (multicultural society; knowledge influencing the appropriate choice of police action in relation to cultural differences, subcultures; LGBTQ communities; prejudice, discrimination; the importance of non-prejudice in police work; situational exercises related to the topic)
- c) Communication skills training (development of communication skills necessary for effective police work; effective communication; meta-communication; listening techniques; communication styles, with special emphasis on assertive and aggressive communication; body language - posture, spacing, verbal communication; observation, correct interpretation and application of verbal and non-verbal communication signals; conscious use of listening techniques; appropriate communication with citizens during actions:
  - ca) with persons of different gender and age.
  - cb) with persons from different cultures.
  - cc) when questioning and interviewing witnesses, victims, suspects.
  - cd) with citizens exhibiting deviant behaviour (under the influence of alcohol or other intoxicating substances, abnormal mental state, mental retardation, etc.);
- d) Conflict and stress management (training) (sources of stress in police work; stress management in the workplace; stress management techniques; coping with stress following the use of measures and coercive means; communication in crisis situations; conflict situations, types of conflict management; conflict resolution styles, strategies);
- e) Social work, correct treatment of aggrieved parties (training) (The aim of the training is to enable the trainee to identify and typify victims and aggrieved parties, to provide for them information on the legal and other avenues open to them, to provide effective assistance with appropriate empathy, and the correct communication style;

85. Related theoretical knowledge: the rights and obligations of aggrieved parties in the different procedures (regulatory offence procedure, criminal procedure, other violations of law); Basic knowledge of victimology (typology of victims, victim assistance options); Required skills and competences: assertive communication, cooperation, quality, determination, empathy). Tasks to be carried out: immediate assistance to aggrieved parties - first aid, if necessary, rapid clarification of the circumstances, reassuring an aggrieved party, using good communication and appropriate empathy, informing aggrieved parties of their legal options (rights, obligations), information on help for aggrieved parties (victims) (to whom to turn for further help, compensation, mitigation of damages, legal aid), providing further information based on questions raised by the aggrieved party. Method: case analysis, presentation of best practices; presentation of stories for the trainees who, in the knowledge of the tasks to be performed, carry out the necessary tasks related to aggrieved parties.
86. In addition to the information contained in the training materials, case studies sent by the National Police Headquarters, presenting violations committed by members of the professional staff are also regularly processed.

## **5.2. Prosecution training on proceedings regarding police ill-treatment cases**

87. The Prosecution Service is actively involved in the joint EU/CoE project HELP, which provides e-learning-based online training. The Office of the Prosecutor General ensures the wide participation of prosecutors in trainings organised with the assistance of national tutors. Furthermore, the members of the Prosecution Service have been informed about the possibility of free courses available on the HELP online training platform accessible to all in both Hungarian or foreign languages, and that free access to e-learning-based online training is provided, regardless of the position and place of service.
88. Participation in HELP trainings is not compulsory, but the Prosecution Service encourages prosecutors to participate. According to the Prosecutor General's Instruction No. 25/2012 (XI. 16.) LÜ on the continuing education of prosecutors, completion of the HELP course is considered as participation in an international professional event in a foreign language for at least four hours per day, which can be counted as 10 training points out of the 50 points to be completed during the obligatory training period.
89. The Department for Terrorism, Money Laundering and Military Cases of the Prosecutor General prescribed a training programme for investigating prosecutors in March 2023, by its transcript. The training was held on 27 November 2023 on the topic 'Treatment of persons subject to investigation'. Participation of investigating prosecutors in the training was mandatory. The training was held by the unit head of the Investigation Supervision Division of the Central Chief Prosecution Office of Investigation and covered the subject of police assaults and their investigation. The lecturer explained the essence of the Council of Europe's legislation, the case law of the Court and the lessons to be learned from these judgments. As in the training course on the same subject in 2022, a detailed analysis and evaluation of a current case was given, namely the case of *Alhowais v. Hungary* in 2023.

## **6. The Office of the Prosecutor General's examination**

87. The lessons learned from the internal target inspection on *'Practical experience of prosecution investigations into the offences of assault and coercive interrogation in official proceedings committed by police and prison officers'*:
89. The aim of the study is to provide a comprehensive picture of the nature, difficulty of proof and effectiveness of prosecutions for violent official crimes. The inspection covered the cases conducted by the Central Chief Prosecution Office of Investigation and the regional prosecution offices of investigation (RNYÜ) in the period 1 January 2022 - 30 June 2023 for the offences of assault in official proceedings and for the offence of forced confession (Articles 226 and 227 of the old Criminal Code, Articles 301 and 303 of the new Criminal Code). Its methodology was based on an evaluation of data for the period under review and a sample of 103 case files selected at random from among those that met the criteria for the inspection.
90. The report concluded that the nature of the proceedings and the difficulties of proof did not pose any particular professional challenges or complex legal problems. The majority of cases involved the proof of one set of facts and one offence. The common feature was the poor evidence of the offence and the fact that the vast majority of cases were closed for lack of evidence. The effectiveness of the proceedings can therefore be measured in terms of their legality, completeness, timeliness and the professional quality of the decisions terminating the investigation.
91. In this respect, the inspection has highlighted important problems. It showed that the prosecution offices committed errors of varying degrees of seriousness in 65% of the cases examined, sometimes more than once in a single case.
92. As a result of the inspection, the Office of the Prosecutor General imposed the following:
- 1) Prosecutors and the heads of the prosecution offices exercising review should place more emphasis on planning investigations, conducting substantive and expedient procedural actions, improving the quality of interrogations, more complete fact-finding, the form and content of the drafting of decisions, in particular with regard to accurate legal qualifications, and the sufficient detail of the reasons, including the establishment of the facts of the case.
  - 2) In determining the legal classifications, particular attention should be paid to the cumulative assessment of the official offences and offences against bodily integrity. The legal concept of private motion should be interpreted appropriately in this context.
  - 3) It must be ensured that decisions and other official documents are properly served and the right to use the mother tongue is observed.



4) Particular care must be taken to ensure that victims are informed of their rights and that they are given the opportunity to exercise their rights fully.

5) In all cases where the investigation has revealed that the decision to terminate the proceedings is unfounded or unlawful, the necessary measures should be taken.

93. In order to prevent future occurrences of errors revealed by the inspection, the Central Chief Prosecution Office of Investigation and the heads of RNYÜs should exercise more vigilant revision and the Chief Prosecution Office should periodically and systematically review the legal classification in practice and compliance with procedural rules in relation to official offences.

## 7. Statistics

### 7.1. Statistical data provided by the Office of the Prosecutor General

94. In 2022, there were 474 criminal complaints of assault in official proceedings and 59 complaints of forced confession. In 2023, this number reached 252 cases of assault and 35 cases of forced confession in the first half of the year. So the figures for the first half of the year show an upward trend.

95. Data on received and dealt with complaints for the criminal offence of assault in official proceedings:<sup>1</sup>

Structural unit	Criminal complaints received by the prosecution service (incoming cases)		The way of handling criminal complaints received by the prosecution service							
			Ordering an investigation		Rejecting the criminal complaint		Supplementation of the criminal complaint		Other measures	
	2022	2023 Semester I	2022	2023 Semester I	2022	2023 Semester I	2022	2023 Semester I	2022	2023 Semester I
Central Chief Prosecution Office of Investigation	14	8	0	0	0	0	0	0	14	8
Regional Prosecution Office of Investigation of Budapest	186	86	109	57	41	18	7	3	27	4
Regional Prosecution Office of Investigation of Debrecen	102	72	82	60	15	7	3	2	1	1
Regional Prosecution Office of Investigation of Győr	52	25	47	18	3	0	1	1	1	1
Regional Prosecution Office of Investigation of Kaposvár	39	20	34	13	3	2	0	0	2	3
Regional Prosecution Office of Investigation of Szeged	81	41	71	32	1	2	6	7	3	0
<b>Total</b>	<b>474</b>	<b>252</b>	<b>343</b>	<b>180</b>	<b>63</b>	<b>29</b>	<b>17</b>	<b>13</b>	<b>48</b>	<b>17</b>

96. Data on received and dealt with complaints for the criminal offence of coercive interrogation:<sup>2</sup>

<sup>1</sup> Number of incoming cases registered in the Criminal Case Management System (BÜR)

<sup>2</sup> Number of incoming cases registered in the Criminal Case Management System (BÜR)

Structural unit	Criminal complaints received by the prosecution service (incoming cases)		The way of handling criminal complaints received by the prosecution service							
			Ordering an investigation		Rejecting the criminal complaint		Supplementation of the criminal complaint		Other measures	
	2022	2023 Semester I	2022	2023 Semester I	2022	2023 Semester I	2022	2023 Semester I	2022	2023 Semester I
Central Chief Prosecution Office of Investigation	2	4	0	0	1	2	0	0	1	2
Regional Prosecution Office of Investigation of Budapest	28	10	10	2	11	7	3	1	3	0
Regional Prosecution Office of Investigation of Debrecen	8	1	8	1	0	0	0	0	0	0
Regional Prosecution Office of Investigation of Győr	5	3	1	3	1	0	1	0	2	0
Regional Prosecution Office of Investigation of Kaposvár	10	11	10	8	0	1	0	0	0	2
Regional Prosecution Office of Investigation of Szeged	6	6	2	4	3	0	2	1	0	1
<b>Total</b>	<b>59</b>	<b>35</b>	<b>31</b>	<b>18</b>	<b>16</b>	<b>10</b>	<b>6</b>	<b>2</b>	<b>6</b>	<b>5</b>

Structural unit	Investigation ordered in the given year				Investigation completed in the given year			
	criminal offence of assault in official proceedings		criminal offence of coercive interrogation		criminal offence of assault in official proceedings		criminal offence of coercive interrogation	
	2022	2023 Semester I	2022	2023 Semester I	2022	2023 Semester I	2022	2023 Semester I
Central Chief Prosecution Office of Investigation	0	0	0	0	0	0	0	1
Regional Prosecution Office of Investigation of Budapest	114	61	10	2	108	53	4	6
Regional Prosecution Office of Investigation of Debrecen	81	61	8	2	39	13	3	2
Regional Prosecution Office of Investigation of Győr	43	17	2	3	48	25	3	2
Regional Prosecution Office of Investigation of Kaposvár	34	12	10	8	37	18	7	3
Regional Prosecution Office of Investigation of Szeged	76	41	3	4	80	42	6	1
<b>Total</b>	<b>348</b>	<b>192</b>	<b>33</b>	<b>19</b>	<b>312</b>	<b>151</b>	<b>23</b>	<b>15</b>

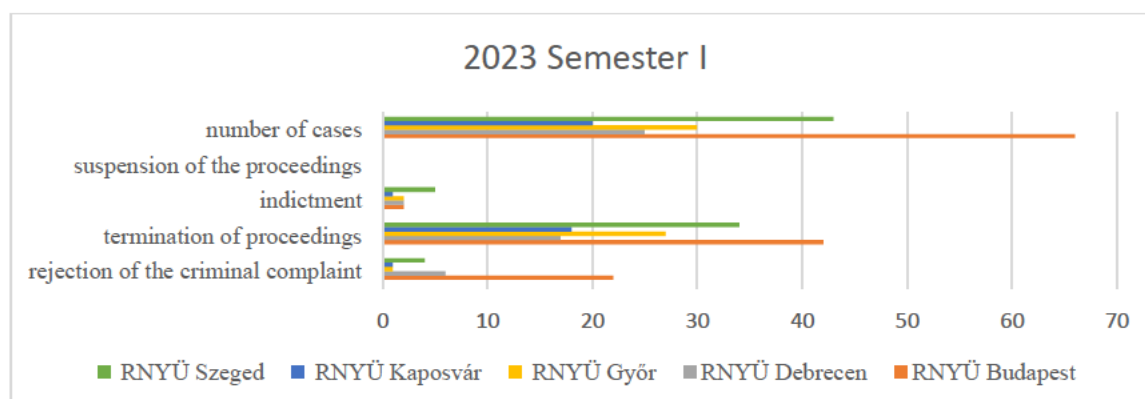
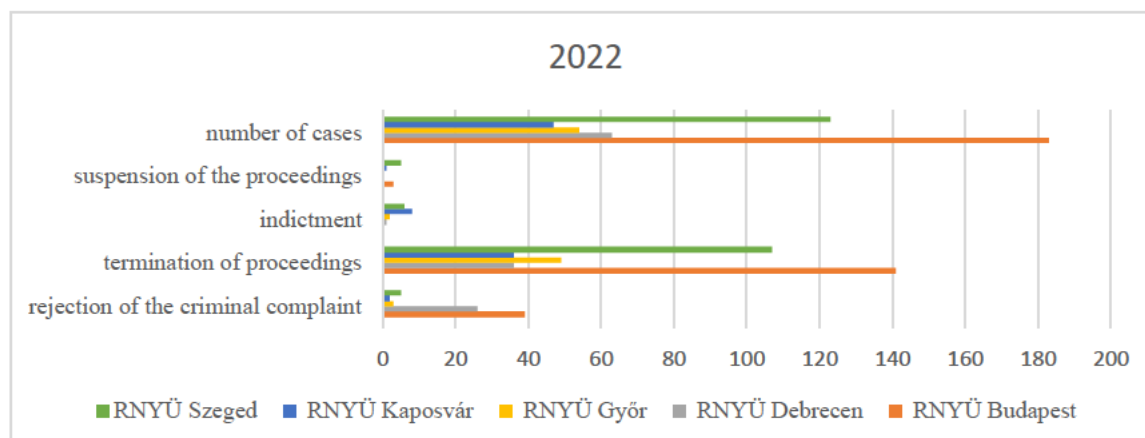
97. Types of procedural decisions in completed cases<sup>3</sup>

number of cases/procedural decisions in cases of assault in official proceedings	2022						2023 Semester I					
	Central Chief Prosecution Office of Investigation	RNYÜ Budapest	RNYÜ Debrecen	RNYÜ Győr	RNYÜ Kaposvár	RNYÜ Szeged	Central Chief Prosecution Office of Investigation	RNYÜ Budapest	RNYÜ Debrecen	RNYÜ Győr	RNYÜ Kaposvár	RNYÜ Szeged
Number of cases		183	63	54	47	123		66	25	30	20	43
Rejection of the criminal complaint		39	26	3	2	5		22	6	1	1	4

<sup>3</sup> Based on data registered in the subsystem Statistics of Completed Criminal Proceedings (BBS) of ENYÜBS'18

Termination of proceedings		141	36	49	36	107		42	17	27	18	34
Indictment			1	2	8	6		2	2	2	1	5
Suspension of the proceedings		3			1	5						

(RNYÜ: Regional Prosecution Office of Investigation)



98. Of the 470 completed cases in which a procedural decision was recorded, the proportion of indictments in 2022 remained very low, with only 17 cases, representing 3.61% of the total. However, in the first semester of 2023, the trend was upwards, with 12 of the 184 completed cases resulting in an indictment, representing 6.52%.
99. The indictment rate of the regional investigation authorities was 92.85% in 2022, while in the first semester of 2023 it is 100% for the time being.<sup>4</sup>
100. As regards the timeliness of proceedings, the national data of the regional prosecution offices of investigation show that some protracted proceedings only worsen the timeliness indicators, but that the vast majority of proceedings in the segment under review are typically completed within 5-6 months.
101. The Office of the Prosecutor General will continue to use all available means - revisions, target

<sup>4</sup> Based on the data of the Prosecution Information System (VIR) – 'VIR' data collection is of a tracking (output) nature, with the year to which the data are allocated being determined by the date of the final court decisions

inspections, briefings in individual cases - to ensure the lawful and efficient functioning of prosecutorial investigations.

## 7.2. Statistical data provided by the National Office for the Judiciary

102. The following table illustrates the relevant statistical data for the Gubacsi group of cases between the years of 2022 and 2023.

	Mistreatment in Official Proceedings		Coerced Interrogation		Assault on a Public Official	
	2022	2023*	2022	2023*	2022	2023
Number of convicted perpetrators	17	18	2	0	290	321
Number of Accused Persons Acquitted	3	2	0	0	14	10
Termination of the criminal proceedings	0	0	0	0	6	7
<b>Imposed penalties, measures</b>						
Imprisonment:	6	8	0	0	241	279
- suspended	4	7	0	0	159	169
- served	2	1	0	0	82	110
Custodial Arrest	0	0	0	0	7	2
Community Service Work	0	1	0	0	11	9
Fine	11	10	2	0	22	23
Prohibition To Exercise Professional Activity	0	0	0	0	1	2
Driving Ban	0	0	0	0	16	27
Ban From Visiting Sport Events	0	0	0	0	1	0
Expulsion	0	0	0	0	5	17
Demotion	2	3	0	0	0	0
Warning	0	0	0	0	2	1
Conditional Sentence	0	0	0	0	10	9
Reformatory Institution	0	0	0	0	6	2
Deprivation Of Civil Rights	2	1	0	0	78	97
Confiscation Of Property	0	0	0	0	4	3
Confiscation	0	0	0	0	3	8
Probation With Supervision	0	0	0	0	20	27
Demotion	2	1	2	0	0	0
Extension Of the Waiting Time,	4	0	0	0	0	0

*\*Database is not closed*

Act	Act IV of 1978	Act C of 2012
Mistreatment in Official Proceedings	226.§	301.§
Coerced Interrogation	227.§	303.§
Assault on a Public Official	229.§	310.§

103. It is necessary to consider that an accused individual may have received multiple penalties and measures, which means that the number of penalties and measures may exceed the number of

convicted individuals. Additionally, in cases of multiple counts of offenses, an individual may be convicted by the court not only for the specified offense but also for other offenses or crimes.

### **8. Publication and dissemination**

104. The judgments have been published on the website of the Government (see: <http://igazsagugyiinformaciok.kormany.hu/az-emberi-jogok-europai-birosaganak-iteletei>). The relevant authorities were informed about the cases as well.

### **III. Conclusions of the respondent state**

105. The Government consider that the measures adopted have remedied the consequences for the applicants of the violation found by the Court in these cases and that Hungary has thus complied with its obligations under Article 46, paragraph 1 of the Convention.

Budapest, 3 October 2024



Zoltán Tallódi  
Agent for the Government of Hungary