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Meeting: 1419th meeting (December 2021) (DH)

Item reference: Action plan (01/10/2021)

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

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Réunion : 1419^e réunion (décembre 2021) (DH)

Référence du point : Plan d'action (01/10/2021)

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

**Group Action Plan of 28 September 2021
in the cases of**

**Gubacsi v. Hungary (Appl. No. 44686/07, judgment of 28/06/2011, final on 28/09/2011),
Borbála Kiss v. Hungary (Appl. No. 59214/11, judgment of 26/06/2012, final on 26/09/2012),
Csonka v. Hungary (Appl. No. 48455/14, final judgment of 16/04/2019),
Haász and Szabó v. Hungary (Appl. No. 11327/14, judgment of 13/10/2015, final on 13/01/2016),
Kovács v. Hungary (Appl. No. 21314/15, final judgment of 29/01/2019),
László Károly (No.2.) v. Hungary (Appl. No. 50218/08, judgment of 12/02/2013, final on 12/05/2013),
M.F. v. Hungary (Appl. No. 45855/12, judgment of 31/10/2017, final on 05/03/2018),
R.S. v. Hungary (Appl. No. 65290/14, judgment of 02/07/2019, final on 02/10/2019),
Réti and Fizli v. Hungary (Appl. No. 31373/11, judgment of 25/09/2012, final on 25/12/2012),
Tarjáni v. Hungary (Appl. No. 29609/16, judgment of 10/10/2017, final on 10/01/2018),
Terge v. Hungary (Appl. No. 3625/15, final judgment of 27/02/2018),
Nagy v. Hungary (Appl. No. 43441/15, final judgment: 26/05/2020)**

Case description

1. This group of cases concerns ill-treatment (between 2000 and 2016) by law enforcement officers, lack of adequate investigations in this respect, violations of the right to life or failure to investigate possible racist motives for ill-treatment (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).

Individual measures

2. The rules regarding criminal proceedings are prescribed by
 - a) Act XIX of 1998 on criminal proceedings (hereinafter: “the Old CPA”) in cases of abuses, where the report on the given abuse was adjudged before 30 June 2018, or
 - b) Act XC of 2017 on criminal proceedings, which is applicable from 1 July 2018 (hereinafter: “the CPA”)

Section 29 a) of the Old CPA stipulated – as part of the rules regarding the tasks and powers of the prosecution, that – except for the cases where military criminal proceeding shall be conducted – the prosecution has exclusive power to conduct investigations on crimes committed by the commissioned officers of the Police. As part of the sub-chapter of the CPA regarding the exclusive investigation powers of the prosecution, Section 30 a) of the CPA contains the same provision.

In case of criminal proceedings started as a result of actions affected by the Court’s judgments, in the course of the possibilities for the prosecution to take investigation measures, one cannot disregard the statute of limitation provisions of the actually prevailing criminal code, which may prevent further investigation actions – also considering any

eventual interruption of the passage of time in calculating the passage of the statute of limitation. Therefore, one must examine the question of statute of limitation.

- a) According to the Act IV of 1978 on the Criminal Code, which was in effect until 30 June 2013 (hereinafter: “the Old CC”) – with certain exceptions – the enforcement of a penalty becomes time-barred when the time equal to the longest applicable punishment for the given crime – but unless this law otherwise provides – not less than three years lapses. According to Section 226 of the Old CC, the crime of mistreatment in official proceedings was punishable with up to three years imprisonment. Pursuant to Section 35 of the Old CC the statute of limitation shall be interrupted by any act of the authorities acting in criminal proceedings against the perpetrator in connection with the crime, and the period of limitation shall restart on the day of the interruption.
 - b) Since 1 July 2013, Act C of 2012 on the Criminal Code (hereinafter: “the CC”) applies, pursuant to Section 26 (1) of which the enforcement of a penalty becomes time-barred when the time equal to the longest applicable punishment for the given crime – except for the cases set forth in Sections 26 (2) and (3) of CC – not less than five years lapses. According to Section 301 of the CC, the crime of mistreatment in official proceedings is punishable with up to five years imprisonment, and the punishment is up to eight years if the crime is committed in a gang. Pursuant to Section 28 (1) of the CC, the statute of limitation shall be interrupted by any action of the court, the public prosecutor, the investigating authorities, or - in international cases - by the minister in charge of the judicial system or the competent foreign authority taken against the perpetrator in connection with the crime. The period of limitation shall restart on the day of the interruption.
3. In the case of **Gubacsi v. Hungary**, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (10,500 EUR) as well as in respect of costs and expenses (3,750 EUR) was paid to the applicant on 23 December 2011 (amount paid: 4,327,328 HUF; exchange rate: 306.83).
 4. In the case of **Borbála Kiss v. Hungary**, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (5,000 EUR) as well as in respect of costs and expenses (3,000 EUR) was paid to the applicant on 21 November 2012 (amount paid: 2,250,480 HUF; exchange rate: 281.31).

Since the Borsod-Abaúj-Zemplén County Police Department learnt about the ECHR judgment given in the above case, no new fact, data or circumstance have emerged necessitating the repeat of the formerly conducted internal investigations (as a result of which the police measure complained of was found to have been lawful, professionally adequate and justified) or the conduct of new proceedings.

No individual measures were taken in the case, but the situation was analysed for general, preventive purposes. In order to avoid similar cases, the Borsod-Abaúj-Zemplén County Police Department devotes special attention to the continuous training and evaluation of the police staff, and since the case at issue young police officers have performed their service duties together with more experienced colleagues.

5. In the case of **Csonka v. Hungary**, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (8,000 EUR) as well as in respect of costs and expenses (2,400 EUR) was paid to the applicant on 4 July 2019 (amount paid: 3,353,896 HUF; exchange rate: 322.49).
6. In the case of **Haász and Szabó v. Hungary**, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (15,000 EUR) as well as in respect of costs and expenses (5,053 EUR) was paid to Ms. Haász on 13 April 2016 (amount paid: 6.230.868 HUF; exchange rate: 310.52).

The applicants' representative, Mr. G. Szabó sent submissions to the email address of the Central Complaint Office of the Control Service of the National Police Headquarters, which submissions were forwarded by the Complaint Office to the Veszprém County Police Department on 9 October 2018 so that action be taken where needed. In the submissions, the applicants filed damages claims in relation to a police measure taken by a police officer of the Balatonfüred Police Department.

The judgment contained no circumstance necessitating a change in the position of the Veszprém County Police Department, therefore – in the absence of any legal ground for payment of damages – the claims for pecuniary and non-pecuniary damages were found to be ill-founded. The legal representative was informed of this fact.

7. In the case of **Kovács v. Hungary**, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicants (9,000 EUR to each applicant) as well as in respect of costs and expenses (6,000 EUR to the applicants jointly) with 1,485 EUR tax was paid to the applicants on 25 April 2019 (amount paid: 14,011,737 HUF; exchange rate: 322.22).
8. In the case of **László Károly (No.2.) v. Hungary**, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (5,000 EUR) as well as in respect of costs and expenses (3,000 EUR) was paid to the applicant on 25 June 2013 (amount paid: 2,372,640 HUF; exchange rate: 296.58).
9. In the case of **M.F. v. Hungary**, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (10,000 EUR) as well as in respect of costs and expenses (4,724 EUR) was paid to the applicant on (amount paid: 4,696,662 HUF; exchange rate: 318.98).
10. In the case of **R.S. v. Hungary**, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (9,000 EUR) as well as in respect of costs and expenses (4,080 EUR) was paid to the applicant on 17 January 2020 (amount paid: 4,389,517 HUF; exchange rate: 335.59). Default interest was not paid to the applicant because of delayed communication of information required for payment.
11. In the case of **Réti and Fizli v. Hungary**, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (2x5,000 EUR) as well as in respect of costs and expenses (3,350 EUR) was paid to the applicants on 12 February 2013 (amount paid: 3,889,001 HUF; exchange rate: 292.06).
12. In the case of **Tarjáni v. Hungary**, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (7,500 EUR) as well as in respect of costs and expenses

(3,000 EUR) was paid to the applicant on 3 April 2018 (amount paid: 3.281.670 HUF; exchange rate: 312.54).

Following the incident, the Békés County Police Department prepared training material for the police staff of the Department, which also contained case studies on procedures related to police measure tactics.

13. In the case of **Terge v. Hungary**, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (6,000 EUR) as well as in respect of costs and expenses (2,000 EUR) was paid to the applicant on 25 May 2018 (amount paid: 2.557.680 HUF; exchange rate: 319.71).

14. In the case of **Nagy v. Hungary**, payment of just satisfaction (10,000 EUR in respect of non-pecuniary damage and 3,150 EUR in respect of costs and expenses) is ongoing.

In relation to the ECtHR judgments, the time limitation of punishability for an alleged police ill-treatment is also an issue to be examined.

Under section 33 of Act No. IV of 1978 on the Criminal Code (henceforth: "the former Criminal Code"), which was in force till 30 June 2013, punishability became time-barred, with certain exceptions, after the elapse of the time corresponding to the upper limit of the statutory penalty but, unless otherwise provided by that Act, at least three years. Ill-treatment in official proceedings as governed by section 226 of the former Criminal Code was punishable by an imprisonment of up to three years. According to section 35 of the former Criminal Code, the limitation period was interrupted by a criminal procedural act taken against the perpetrator on account of the offence, on which day the limitation period would start to run again.

Under section 26(1) of Act No. C of 2012 on the Criminal Code (henceforth: "the new Criminal Code"), save where subsections (2)-(3) apply, punishability becomes time-barred upon the lapse of time corresponding to the maximum statutory penalty or after not less than five years. Under section 301 of the new Criminal Code, the basic offence of ill-treatment in official proceedings shall be punishable by an imprisonment of up to five years, whereas the commission of the offence in a group shall be punishable by an imprisonment of up to eight years. Under Article 28(1) of the new Criminal Code, the statute of limitation shall be interrupted by any action of the court, the public prosecutor, the investigating authorities, or - in international cases - by the minister in charge of the judicial system or the competent foreign authority taken against the perpetrator in connection with the offence. The period of limitation shall restart on the day of the interruption.

When examining the possibility of any investigative step by the prosecution service in criminal proceedings instituted on account of the alleged police ill-treatments having formed the subject-matter of the ECtHR judgments, the limitation provisions of the Criminal Code, as in force at the time of the commission of the offence, which may preclude the taking of any further investigative acts even if the limitation period was interrupted, must also be taken into consideration.

In 10 out of 11 cases in this group, no further investigation can be conducted due to statutes of limitations.

Questions relating to medical care provided for detainees (Point 6.)

Under section 18(2) of *Act No. XXXIV of 1994 on the Police* (henceforth: "the Police Act"), the Police shall provide for the accommodation of the detainee and shall provide necessary treatment for the detainee to prevent any health impairment that may result from the detention. An injured or sick detainee or a detainee in need of urgent medical care for any other reason shall be provided with medical care. Section 31(7) of Decree No. 30/2011 (IX. 22.) of the Minister of Interior on the Service Regulation of the Police, following the restriction of his personal liberty the detainee shall be required to declare any injury or complaint, and must be provided with medical care, if needed.

Under section 34(1) of *Decree No. 56/2014 (XII. 5.) of the Minister of Interior on the Rules Applicable to Police Holding Units*, medical care for detainees is to be provided by the person in charge of the detainee primarily via the medical service of the police or, in the absence thereof, based on contract, via the state or municipal health service.

According to point 154 of *Instruction No. 3/2015 (II. 20.) of the National Police Headquarters on Police Detention Service Regulations* (henceforth: *Instruction No. 3/2015*), basic health care shall be provided for detainees in the medical office hours indicated and posted in the daily schedule. The person in charge of providing health care in the police holding unit must provide care to the detainee having a health complaint at a level commensurate with his qualifications, in a manner that can reasonably be expected from him. The staff on duty in the police holding unit shall provide first aid to anyone in need of it.

According to point 156 of *Instruction No. 3/2015*, medical care in the police holding unit shall be provided by the medical assistant, who shall:

- a) in the police holding unit, participate in the medical admission of the detainees, assist the doctor providing basic medical care, and perform organisational and coordination tasks relating to specialist medical care to be provided for a detainee,
- (b) provide first aid in the police holding unit, in accordance with his qualifications,
- (c) distribute the prescribed medications to the detainees;
- (d) supervise the proper use of the equipments in the medical room,
- (e) manage medicines and other supplies and arrange for their replacement as necessary,
- (e) administer medicines and medical supplies,
- (f) keep up-to-date the records of the prescriptions of medicines to the detainees, the medication dispensed to the detainees, and the administration of the medicines.

Under point 151 of *Instruction 3/2015*, emergency medical care shall be provided by a doctor of the county (capital) police headquarters or the Standby Police, a contracted external doctor, outside working hours, under an agreement with the on-call doctor of the general practitioner of the place of detention, by a hospital.

The above provisions regulate in a detailed and comprehensive manner the rules applicable to basic and emergency medical care to be provided for the detainees, the rules of ensuring health in the police holding unit, and designate the persons and bodies performing, or used for performing, specific medical tasks, thus providing proper quality medical care for the detainees.

According to Summary Report No. 29000/4927-27/2021. ált. drafted by the Supervision Service of the National Police Headquarters on the implementation of the recommendations of the Committee for the Prevention of Torture (CPT) of the Council of Europe, in 2020 a total of 4 complaints were lodged by detainees in connection with medical care and the quality of the

medical personnel. Based on those complaints, in one case the Commissioner for Fundamental Rights instituted investigations into a complaint related to the supply of medicines, which investigations are still pending. The other complaints concerned the lack of medical care and breaches of pandemic rules. The investigations by the commanders into these complaints did not disclose any unlawfulness or unprofessionalism, therefore the complaints were rejected.

Under section 15(4) of *Decree No. 56/2014 (XII. 5.) of the Minister of Interior on the Rules Applicable to Police Holding Units*, access to and copying of detainees' medical records shall be governed by the provisions of *Act No. XLVII of 1997 on the Processing and Protection of Health Data and Related Personal Data*.

As to the processing of and access to medical opinions prepared at the admission of a detainee in the police holding unit, points 51-51/B of *Instruction No. 3/2015* provide the following:

"51. The police officer conducting the admission shall check whether the order complies with the formal and substantive requirements. If he finds any deficiencies, or notices the absence of a prior medical examination, or suspects that the detainee's state of health differs from the findings made in the preliminary medical examination, in particular if he finds external signs of injury, he shall suspend the admission and shall inform of the suspension the issuer of the order via the on-duty head of the Activity Management Centre or, in case of the Standby Police, the on-duty head of the Standby Police.

The medical opinion shall be enclosed with the order in a sealed envelope, and shall be made available to the detainee on request.

51/A. The captain of the watch may acquaint himself with the content of the medical opinion, from among the information contained therein he may disclose solely the data strictly necessary to their detention-related actions, in particular, information about any infectious disease or mental illness of a nature likely to endanger the security of detention, information about the detainee's medication and diet, or a proposal for the detainee's isolation

(a) to the captain of the watch taking his place when transfer of custody in the police holding unit takes place;

(b) the person specified in points 150-164, performing tasks relating to the detainee's health care;

(c) to staff members being in contact with the detainee concerned, being in charge of his detention or escort.

51/B. In the police holding unit, in addition to the public prosecutor in charge of the supervision of the detention, the head of the investigating organ proceeding in the detainee's case, the administrator, the holding unit commander and the captain of the watch shall be entitled to open the envelope containing the medical opinion. The counsel appointed to or retained by the detainee may inspect the medical opinion placed in the sealed envelope and may, with the written consent of the detainee, request a copy of the opinion. The openings of the sealed envelope shall be recorded on a separate record sheet, attached to the order in accordance with Annex 29, and shall be kept with the case file."

Instruction No. 22/2010. (OT 10.) of the National Police Headquarters issued on the Implementation of the Recommendation of the Committee against Torture (CPT) of the Council of Europe's (henceforth: Instruction No. 22/2010) contains the following provisions on the medical examination:

"5. If, during his preliminary medical examination a detainee complains about ill-treatment or cruel, inhuman treatment:

(a) this shall be recorded in minutes, in the course of which the detainee shall be warned, in a manner documented in the minutes, about the legal consequences of the offences of false accusation, perjury, misleading the authorities, and the fact that the detainee has taken note of the warning shall be recorded;

(b) the outpatient form or medical report issued by the doctor and the minutes shall be presented to the detainee, the necessary information shall be given to him, if necessary through an interpreter, and the documents drawn up in accordance with this point shall be signed by him but he shall not be obliged to do so. If he refuses to sign, that fact shall be recorded.

*6. In the course of the preliminary medical examination, the outpatient sheet or the medical report issued by the doctor, or the copy of the minutes which the doctor transmits, in accordance with the relevant legal provisions, to the public prosecutor supervising the legality of the detention and the head responsible for the detention, shall be handed over, in compliance with the data protection rules, in a **closed, sealed and signed envelope** to the captain of the watch, who shall forward it with urgency to the head responsible for detention.*

*7. Medical records and other medical documentation relating to the detainee and not forming part of the case file of the criminal or petty offence proceedings giving rise to the detention **may be inspected by the counsel upon the detainee's written consent, and the counsel may make copies thereof** at his own expenses.*

*8. Without violating the requirements of secure custody and personal safety, upon the detainee's or the doctor's request it shall be ensured that during the medical examination or treatment the guards should stay out **of earshot and, if possible, out of sight**. Decision-making in this matter shall fall in the competence of the captain of the watch, in agreement with the staff member of the authority escorting the detainee or being present at the medical examination."*

Emphasising "zero tolerance" (point 7.)

Concerning the prohibition of torture and other cruel, inhuman or degrading treatment, point 4 of Instruction No. 22/2010 provides that the enforcement of the requirement of proportionality, and the prohibition of torture, coercive interrogation and cruel, inhuman or degrading treatment or punishment in carrying out police measures or performing procedural acts, set out in sections 15-16 of the Police Act, shall form part of the training of the personnel and their briefing before their entering the service.

Having regard to the findings and observations made in the course of the prosecutorial control of the enforcement of human rights, and to the experience gained from the checks carried out by the commanders of the public order service units and the control services of the police departments, in the course of the daily pre-deployment briefings held for law enforcement personnel on duty in public areas, the briefing commanders fulfil their information dissemination obligations related to the provisions prohibiting torture, coercive interrogation and cruel, inhuman or degrading treatment.

The Law Enforcement Directorate-General of the National Police Headquarters compiles methodological recommendations, information and assistance materials for the police authorities on the practical activities related to the police measures taken against persons with restricted personal liberty and on the use of coercive measures.

Based on point 27 of Instruction No. 22/2010, the heads of the county (capital) police departments, the commander of the Standby Police, and the director of the Airport Police Directorate shall give priority to, pay close attention to, and examine, or order to examine,

complaints about police measures or proceedings constituting cruel, inhuman, or degrading treatment.

The police authorities annually draft reports on the investigated detainee complaints and on the results, experience and recommendations of the supervisions carried out. These reports are evaluated on the basis of professional criteria by the Criminal Directorate-General and the Law Enforcement Directorate-General of the National Police Headquarters which, respectively, draft a partial report on their findings. Based on these reports and the partial reports the Supervision Service of the National Police Headquarters annually evaluates the enforcement and respect of human rights at national level. In light of its report it can be concluded that an appropriate system exists for the enforcement of the detainees' rights and for the transmission of their complaints and submissions.

Police authorities pay special attention to respect for human rights. The complaints reach the police authorities that are obliged to take action, and grievances are fully investigated. Submissions are examined and determined at several levels, decisions can be fully challenged, even by a remedy filed to the court.

Human rights training for police officers (point 7.)

According to the available national data, the Supervision Service of the National Police Headquarters once a year organises a training about "Complaints against police measures, the processing and examination of public-interest notices and submissions", and the same subject-matter is discussed during the trainings entitled "Professional further training of the Supervision Service of the National Police Headquarters and the regional supervision services", held twice a year.

The specialised training courses held by the Education and Training Centre of the Police for service commanders and district commissioners also disseminate professional information on how to avoid police ill-treatment.

The specialised training course for service commanders covers conflict management and conflict resolution techniques applied in the work of service commanders, and strengthens communication and psychological skills that can be used in managing stressful situations during police actions, thus contributing to a great extent to the enforcement of successful, impartial measures, free of conflicts.

The human rights requirements vis-a-vis a police action (4 lessons), the use of verbal and nonverbal channels of communication, factors that hinder them, and the presentation and practice of communication in crisis situations (transaction analysis, in 2 lessons) are treated as a priority in the training.

The training material for the training course for district commissioners also covers communication, conflict management and transaction analysis (4 teaching hours), as well as 'conflict management in multicultural context and in cases of domestic violence' (4 lessons).

In the theoretical and practical trainings, particular attention is paid to emphasising that police officers always respect human rights and fundamental freedoms, and they are obliged and entitled to act impartially, lawfully, professionally, proportionately, without bias and prejudice.

The aim of the police training is to meet the requirements of the 21st century European standards and to train police officers in practice-oriented preparation for police activities in line with the required job competencies, to enable police officers to take lawful and professionally correct actions, to embrace a cultured, citizen-friendly, service-providing attitude, and a style of action free of discrimination.

To this end, information related to police ill-treatment are also included in the training material of the 10 months long police patrol training, the border patrol and passport manager training, the 2 years long non-commissioned officer training and the police officer training.

Use of audio and video recording equipment and body cameras (point 8.)

The installation of audio and video recording equipment in the service vehicles and the acquisition and use of body cameras take place within the confines of budgetary limitations.

In 2022, the police will examine, emphatically within the confines of budgetary limitations, the timetable and manner in which developments (installation of audio and video recording equipment in the service vehicles and the acquisition and use of body cameras) in this area can be implemented.

Effective investigations (point 9.)

In the *Gubacsi v. Hungary* cases, due to the procedural rules previously in force and the previous organisational structure of the prosecution, investigations were carried out by different investigating prosecutor's offices under the direct professional supervision of various superior prosecutor's offices. Under the current procedural rules and prosecutorial organisational structure, the investigation of the group of cases examined by the Committee of Ministers, i.e. the investigation of public office offences committed by members of the police and prison staff, falls exclusively within the competence of the regional investigative prosecution services and the Central Investigative Prosecution Service. The reorganisation of the organisational structure of the investigative prosecution offices together with the unified professional control will make it possible to ensure a uniform professional system of standards in the proceedings and to increase the effectiveness of investigations.

The prosecution's track record demonstrates that, in cases where investigations result in indictments, the prosecution can act effectively and efficiently in respect of public office offences.

According to Circular No. 1/2018 (30.VI.) of the Deputy Chief Public Prosecutor for Criminal Law on certain issues of the practice of motioning legal disadvantages and appeals in criminal proceedings, prosecutors must act very firmly and with particular consistency against perpetrators of criminal acts that violate or endanger human dignity and fundamental rights. Point 11 of the Circular specifically mentions the need to demand vigorous prosecution of the perpetrators of public office offences. In his motions for the impositions of punishment, the prosecutor must seek to enforce the provision in section 80(2) of the Criminal Code on the average rate of imprisonment. If the sentence imposed by the first instance court does not satisfy the prosecution's criminal claim, a convincingly reasoned, that is, professionally correct, moderate and objective appeal must be lodged, even if the sentence imposed is in accordance with the usual local or national court practice. A failure to have recourse to a remedy would

strengthen that practice even in cases where public safety and the protection of citizens' constitutional rights require much more effective penalties to be imposed than previously.

The guidelines are also mandatory in proceedings for ill-treatments in official proceedings, and they aim to increase the rigour of sentencing practice. No other measure has been taken on the basis of the Council of Europe recommendations.

Under section 20(2)-(3) of Minister of Justice Decree No. 16/2014 (XII. 19.) on the Detailed Rules of Implementing Imprisonment, Confinement, Pre-trial Detention and Confinement Replacing Disciplinary Fine, if a prisoner is found to have external injuries on admission, or if a prisoner who has been transferred from a police holding unit or a youth correctional institution claims to have been ill-treated, the medical examination set out in section 3(7) of Minister of Justice Decree No. (8/2014 ((XII. 12.) on Health Care for Convicts Held in Penitentiary Institutions and Persons Detained on Other Grounds shall be carried out without delay, minutes shall be taken, and a copy of the minutes shall, respectively, be sent to the body carrying out the escort and to the prosecutor's office supervising legality, together with a copy of the medical report.

Provisions identical in content to the above are also contained in section 15(2)-(3) of Minister of Interior Decree No. 56/2014 (XII. 5.) on the Rules of Police Holding Units, in section 13(5) of Minister of Human Resources Decree No. 1/2015 (I. 14.) on the Rules of Youth Correctional Institutions, and section 3(10)-(11) of Minister of Justice and Law Enforcement Decree No. 27/2007 (V. 31.) on the Rules of the Execution of Detention Ordered in Immigration Proceedings.

Concerning the prosecution service, point 7 of Circular No. 3/2000 (ÜK.12.) on the implementation of the recommendations of the European Commission for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment stipulates that senior public prosecutor's offices shall annually report to the Independent Department for the Supervision of the Legality of the Execution of Sentences and for Rights Protection ("Independent Department") of the Chief Public Prosecutor's Office on the situation of the legality of the treatment of detainees in their respective jurisdictions. Each year, the Independent Unit shall prepare a summary report on the subject using the partial reports of the senior prosecutor's offices. According to the findings made in point 7 of summary report No. Bv. 33/2020, issued in 2020 but presenting the situation in the previous year, based on the available data, in the period under review, if the detention facilities perceived traces of external injuries, they complied (with occasional exceptions) with the statutory provisions applicable to them. Point 8 of the report also indicates that, according to the reports of the senior public prosecutor's offices, the managers of the detention facilities acted with the necessary firmness towards staff members when they detected any illegal treatment, and complaints of this nature were investigated.

Under section 30(1) of the Chief Public Prosecutor's Instruction No. 20/2014 (XII. 23.) on Prosecutorial Activities Related to the Supervision of the Legality of the Execution of Sentences and on Rights Protection, "If the prosecutor is informed by the body concerned of an incident that occurred during a police action or at the place of detention (penitentiary, youth correctional facility, police holding unit, asylum reception centre, detention centre), community accommodation or reception centre, it shall investigate the cause and circumstances of the incident. The report made thereof shall evaluate the findings of the relevant body's investigation and the measures taken in relation to the incident. If a criminal offence is suspected, criminal

proceedings shall be initiated without delay before the authority competent and responsible for conducting the investigation, if this has not been done yet."

In light of the above, the legal and institutional safeguards for the investigation of injuries occurred in the context of ill-treatment are adequately ensured.

Publication and dissemination

1. The judgments have been published on the website of the Government (see: <http://igazsagugyiinformaciok.kormany.hu/az-emberi-jogok-europai-birosaganak-iteletei>).
2. The Council of Europe and the Hungarian Government intends to organize jointly a round table in Budapest on professional policing. According to the suggestion of the Government the particular event could be organized during the period of the Hungarian Chairmanship of the Committee of Ministers (May 2021 – November 2021).

Conclusions of the respondent state

3. The Government will keep the Committee of Ministers duly informed on all further developments.

Budapest, 28 September 2021



Zoltán Tallódi
Agent for the Government of Hungary