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

Communication from an NGO (Hungarian Helsinki Committee) (28/10/2021) in the case of GUBACSI v. Hungary (Application No. 44686/07).

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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

Communication d'une ONG (Hungarian Helsinki Committee) (28/10/2021) relative à l'affaire GUBACSI c. Hongrie (requête n° 44686/07) **[anglais uniquement]**.

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



Hungarian Helsinki Committee

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DGI

28 OCT. 2021

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

28 October 2021, Budapest

Council of Europe

DGI – Directorate General of Human Rights and Rule of Law Department for the Execution of Judgments of the ECHR

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Subject: Addendum to the Hungarian Helsinki Committee's communication with regard to the execution of the judgments of the European Court of Human Rights in the *Gubacsi v. Hungary* group of cases

Dear Madams and Sirs,

The Hungarian Helsinki Committee (HHC) hereby respectfully submits its observations under Rule 9(2) of the "Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements" regarding the execution of the judgments of the European Court of Human Rights in the *Gubacsi v. Hungary* (Application no. 44686/07, Judgment of 28 June 2011) group of cases.

The HHC is an independent human rights watchdog organisation, with one of its aims being to challenge the impunity of law enforcement for torture and ill-treatment through monitoring, research, advocacy and litigation. The HHC's attorneys have represented applicants successfully before the European Court of Human Rights in relation to ill-treatment by the police and the lack of an adequate investigation in this respect in several cases, including applicants in the group of cases in question, namely in *Gubacsi v. Hungary*, *Réti and Fizli v. Hungary*, *Tarjáni v. Hungary*, *Csonka v. Hungary*, *Nagy v. Hungary* and *Csúcs v. Hungary*.

The present communication concerns the suggested general measures as included in the decision of the Committee of Ministers from October 2020¹ and the Group Action Plan of 28 September 2021 submitted by the Government of Hungary (hereafter: Group Action Plan).² The HHC has already submitted a communication concerning the Group Action Plan on 15 October 2021,³ however, since the submission of this recent communication, the HHC acquired additional information that it deems relevant for the assessment of the Group Action Plan and the implementation of the judgments in question in general. Therefore, the HHC respectfully submits the following **addendum to its communication submitted on 15 October 2021** under Rule 9 (2) of the "Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements".

¹ CM/Del/Dec(2020)1383/H46-9, <http://hudoc.exec.coe.int/eng?i=004-10515>

² DH-DD(2021)972, [http://hudoc.exec.coe.int/eng?i=DH-DD\(2021\)972E](http://hudoc.exec.coe.int/eng?i=DH-DD(2021)972E)

³ Available at: https://helsinki.hu/wp-content/uploads/2021/10/HHC_Rule_9_Gubacsi_v_Hungary_15102021.pdf.



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1. LOW NUMBER OF POLICE VEHICLES EQUIPPED WITH RECORDING DEVICES

In its response of 22 October 2021 to the HHC's freedom of information request,⁴ the National Police Headquarters submitted that the overall number of police vehicles is 8,866, and out of those, 124 are equipped with recording devices capable of recording both image and sound. (According to the National Police Headquarters, there are no such recording devices that would only be capable of recording image.) This means that currently **only 1.4% of all police vehicles are equipped with recording devices capable of recording both image and sound**. This is a **decrease** as compared to March 2020, when the National Police Headquarters submitted that 3.5% of all police vehicles were equipped with such devices (333 out of 9,634).⁵

The National Police Headquarters added that they **do not have information on the actual operation of these devices**, since the devices are operated by the local police bodies, so there is no information available as to what percent of these devices is *actually* used/operated.

2. NO PROGRESS IN THE NUMBER OF POLICE BODY CAMERAS

According to the data provided by the National Police Headquarters, in 2021, the number of body cameras remained the same as in 2020: altogether **70 body cameras** are available **for the entire Hungarian police force**. The only difference as compared to last year is that currently, all counties have access to body cameras, while in March 2020 there were two counties where no body camera was available.

It was submitted by the National Police Headquarters as well that the usage of body cameras is governed by Article 42 of Act XXXIV of 1994 on the Police and Instruction 39/2019. (XI. 19.) ORFK of the National Police Chief on the police's data protection policy. However, while these rules indeed govern the data protection aspects of recordings made by the police, they do not specifically regulate important practical details of the usage of body cameras that can influence their effectiveness, such as: in which instances shall police officers use the camera if they are equipped with one; when shall the recording commence and end; etc.

3. LACK OF RECORDING DEVICES IN ALL POLICE DETENTION FACILITIES

As far as the number of recording devices in the various police detention facilities are concerned, the National Police Headquarters submitted in its response of 22 October 2021 to the HHC's freedom of information request that **they have not conducted new data collection** in this regard since February-March 2020.

Thus, the last data available in this regard is the data provided by the National Police Headquarters in March 2020, which showed that while there were altogether **297 custody suites** ("előállító") in the country at that time, there were **only 114 cameras** in these that were **capable of recording**. (There were further 206 cameras which were not capable of recording, and served only monitoring purposes.) However, all 21 holding facilities ("rendőrségi fogda") were equipped with a camera capable of recording image and sound.

4. NUMBER OF INTERROGATION ROOMS WHERE VIDEO RECORDING IS POSSIBLE

The National Police Headquarters submitted in its response of 22 October 2021 that there are altogether **404 interrogation rooms nationally where the image and sound recording of interrogations is**

⁴ 29000-197/54-20/2021.KOZA, 22 October 2021

⁵ Response of the National Police Headquarters to the HHC's FOI request (29000-197/19-70/2020.KOZA, March 2020). For more detailed data, see the HHC's communication from April 2020: DH-DD(2020)394, [http://hudoc.exec.coe.int/eng?i=DH-DD\(2020\)394E](http://hudoc.exec.coe.int/eng?i=DH-DD(2020)394E), p. 2.



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possible. The overall number of interrogation rooms was not provided by the National Police Headquarters, stating that no new data collection has been carried out in this regard since February-March 2020. According to the data provided by National Police Headquarters to the HHC in March 2020, there were at that point in time altogether 3,659 rooms used for police interrogations. This means that **the video recording of interrogations is possible in approximately 11% of the interrogation rooms.**

It has to be added that in March 2020, the National Police Headquarters replied to the HHC's freedom of information request that the video recording of interrogations was possible in all 3,659 interrogation rooms via mobile devices. Based on the National Police Headquarters' 2021 reply, this no longer seems to be the case.

5. NON-IMPLEMENTATION OF THE CPT'S RECOMMENDATION REGARDING POLICE INTERVIEWING

The HHC asked in its freedom of information request what steps the police have taken to implement the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) that "the Hungarian authorities develop further guidance, procedures and training on how police interviews should be carried out, drawing on an investigative interviewing approach and on the introduction of electronic recording of police interviews. In this context, it should be made clear to police officers that the aim of police interviews must be to obtain accurate and reliable information in order to seek the truth about matters under investigation and not to obtain a confession from a person already presumed, in the eyes of the interviewing officers, to be guilty."⁶

In its response, the National Police Headquarters **did not touch upon the issue of police interviewing techniques or the investigative interviewing approach**, or the overreliance on confessional evidence.⁷ Instead, it only made general statements about the steps taken to prepare for the changes brought by the new Code of Criminal Procedure that entered into force in July 2018, and, more specifically, to ensure the infrastructure and the human resources and professional knowledge to audiovisually record procedural acts. This suggests that no substantive steps have been taken to implement the CPT's recommendation in terms of police interviewing techniques and approach.

RECOMMENDATIONS

For the reasons above, the HHC respectfully maintains its recommendations included in its communication submitted on 15 October 2021.

Sincerely yours,

András Kádár
co-chair
Hungarian Helsinki Committee

⁶ Report to the Hungarian Government on the visit to Hungary carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 29 November 2018, CPT/Inf (2020) 8, § 32.

⁷ The CPT emphasized in its report on its latest visit to Hungary that in order to "mitigate the risks of ill-treatment during police interviews, the CPT considers that interviewing officers should be less focused on confessional evidence". *Ibid.*, p. 5.