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EUROPEAN SOCIAL CHARTER

Comments submitted by EUROMIL
(the European Organisation of Military Associations and Trade
Unions)
concerning the 20th National Report on the implementation of
the European Social Charter

submitted by
THE GOVERNMENT OF HUNGARY
Articles 2, 3, 4, 5, 6, and 20

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European Organisation of
Military Associations and
Trade Unions

Brussels, Belgium
<http://euromil.org/>

Comments by EUROMIL on Hungary's 20th National Report on the European Social Charter Articles 2, 5 and 6

Brussels, 12 June 2025

1. Introduction

This report presents EUROMIL's (the European Organisation of Military Associations and Trade Unions') observations on Hungary's application of the right to just working conditions (Article 2) and the right to organize (Article 5 and 6), particularly in relation to professional members of the Hungarian Defence Forces. It compares Hungary's 20th National Report on the European Social Charter with legal and practical developments that raise serious concerns about the country's compliance with its obligations.

2. Working Time and Service Conditions (Article 2)

2.1 Official Claims in the National Report

In its report, the Hungarian government presents a positive assessment of working time regulations for military personnel. It refers to general principles such as an eight-hour daily duty period, eleven hours of uninterrupted rest between duties, and two rest days per week. The report suggests that national rules comply with EU Directive 2003/88/EC on working time, and that health and safety of personnel are duly protected.

2.2 The Reality Under the New Legal Framework

In contrast to these claims, the actual working time conditions for military personnel have deteriorated significantly. Since July 2024, working time is regulated not by a parliamentary act but by the Government decree on the status of military personnel (Hjkr.) which was adopted following the constitutional amendment. This decree removed previously existing protections and introduced vague or unenforceable standards.

There is now no defined maximum number of working hours per week. While the decree refers to rest periods and weekly days off, these are framed in non-binding language and are not subject to proper oversight. Moreover, Hungary has operated under a continuous "state of emergency" since 2020, which has been used to justify the suspension of many legal protections for military personnel.

Salaries have also been restructured, and allowances or overtime payments previously available to soldiers have been removed. Some categories of personnel have seen a net reduction in income, despite continued or increased workloads. Leave entitlements have been reduced by five to ten days per year without any proper consultation or compensation.

These measures place Hungary in clear breach of Article 2 of the Charter and are incompatible with Directive 2003/88/EC. The absence of clear limits on working time, the lack of meaningful rest provisions, and the elimination of overtime compensation undermine basic labour standards, and the health and safety of those in uniform.

2.3 Systemic Concerns

The changes introduced through the government decree, rather than parliamentary legislation, raise additional concerns about transparency and accountability. Soldiers have no legal recourse or representation in shaping these service conditions. The new regulatory framework treats them not as citizens in uniform with rights, but as a separate class of state agents governed by executive order.

This approach denies them the protections afforded to other workers and contradicts both the Charter and the democratic values it embodies. It also undermines morale and professionalism within the armed forces, with long-term consequences for cohesion and retention.

3. The Right of Association (Article 5)

3.1 The Situation Described in the National Report

The Hungarian government's national report does not acknowledge any limitation of the right to association for military personnel. It presents a general overview of representation mechanisms across sectors and gives the impression that all employees, including members of the armed forces, enjoy the possibility to form and join organizations to defend their interests. The report fails to mention any recent constitutional or legislative changes affecting this right.

3.2 Developments on the Ground

In November 2023, the Hungarian Parliament adopted the 12th Amendment to the Fundamental Law. This amendment introduced a constitutional-level ban on trade union activity for professional members of the armed forces. It states unambiguously that a trade union may not be formed or operate in connection with the legal status of a professional soldier.

This amendment reversed the previous legal situation. Until 2023, the Hungarian Constitution explicitly protected the right of association for all citizens, including those in military service. Trade unions representing military personnel existed in full legality and operated under constitutional and statutory guarantees. By adopting this amendment, Hungary became the first known country in Europe to explicitly revoke a constitutionally guaranteed right of association for soldiers and replace it with a formal ban.



Following the amendment, existing representative organizations were required to dissolve or restructure. They were allowed to continue operating only as professional associations, without the legal status, rights, or guarantees of trade unions. These new structures can function only under specific conditions set out in government decrees. They lack independence, are not entitled to collective bargaining, and their existence is dependent on political approval.

This transformation was not the result of democratic consultation or voluntary organizational change. It was imposed unilaterally through constitutional and executive action. As such, it represents a clear violation of Article 5 of the European Social Charter, which guarantees the right to form and join trade unions, including for members of the armed forces, as reaffirmed by judgments of the European Court of Human Rights in *Matelly v. France* and *ADEFDROMIL v. France*.

3.3 Consequences

The consequences of this amendment are profound. Soldiers are now denied the ability to form or join trade unions entirely. The only permissible forms of representation are government-approved professional associations, which are structurally and functionally dependent on the authorities. This amounts to a withdrawal of a fundamental right that was once guaranteed in the Hungarian Constitution itself.

No other Council of Europe member state has enacted a comparable constitutional ban on soldiers' trade unions after having previously granted and protected that right. This case therefore sets an alarming precedent and stands in stark opposition to both the spirit and the letter of the European Social Charter.

4. The Right to Bargain Collectively (Article 6)

While Hungary's 20th National Report does not provide substantial information regarding collective bargaining rights for military personnel, it is essential to underscore that the recent legal and constitutional reforms gravely undermine compliance with Article 6 of the European Social Charter.

The prohibition on trade unions for professional soldiers not only affects the right to association (Article 5) but also nullifies any possibility for collective bargaining, as protected under Article 6. The professional associations that replaced trade unions lack legal standing and recognition to negotiate on matters of pay, working time, service conditions, or disciplinary procedures. There are no structured mechanisms in place that allow soldiers to engage in good faith negotiation with their employer — the state.

Furthermore, no independent conciliation or arbitration procedures are available to resolve collective disputes. The government holds complete discretion over the composition and functioning of professional bodies, and there is no legal obligation for the state to consult or negotiate with them. This effectively excludes members

of the armed forces from collective labour rights guaranteed by international and European standards.

This state of affairs violates all four paragraphs of Article 6:

- §1 (joint consultation) is not fulfilled.
- §2 (collective bargaining) is explicitly denied.
- §3 (conciliation and arbitration) is non-existent.
- §4 (industrial action) is non-existent.

This legal vacuum leaves soldiers without any collective voice or redress mechanism in employment-related matters, further compounding their vulnerability under the ongoing emergency regime.

5. Continuous State of Emergency and Lack of Termination Rights

Since September 2020, Hungary has operated under a continuous state of emergency, justified by successive crises (COVID-19, migration, and the war in Ukraine). This prolonged exceptional regime has resulted in the suspension of ordinary legal safeguards, including the right of professional soldiers to unilaterally terminate their service.

Under current regulations, members of the armed forces are prohibited from resigning or terminating their contracts at will, even after fulfilling their minimum service obligation. What was initially framed as a temporary necessity has become a permanent restriction, due to the government's repeated extensions of emergency powers without clear end dates or proper parliamentary control.

This indefinite limitation on exit rights:

- violates the principle of free labour and personal autonomy;
- amounts to forced retention incompatible with democratic labour standards;
- is neither time-bound nor proportionate, as required under human rights law.

This situation represents a breach of Article 1 §2 of the European Social Charter, which requires that work is freely chosen and terminable, ensuring individuals are not compelled to remain in employment against their will. Soldiers, as workers in uniform, must retain the basic right to leave their occupation, especially outside wartime or exceptional and clearly time-limited conditions.

This development must be assessed alongside the elimination of trade union rights (Article 5) and the denial of collective bargaining mechanisms (Article 6). Together, these measures reflect a systemic regression in labour rights for military personnel and place Hungary in violation of its Charter obligations.



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6. Conclusion and Recommendations

Hungary's recent constitutional and legislative reforms have resulted in a clear regression in fundamental social rights. The abolition of trade union rights for military personnel, imposed through a constitutional amendment, marks the first time in Europe that such rights were first constitutionally guaranteed and then explicitly banned. This is a historic and deeply troubling precedent.

At the same time, the re-regulation of working time through executive decree has created a framework that fails to meet European minimum standards. Military personnel in Hungary now face unclear duty schedules, reduced income and leave, and the absence of collective bargaining or independent representation.

These developments are incompatible with Articles 5 and 2 of the European Social Charter, to which Hungary remains a party.

EUROMIL therefore respectfully requests that the European Committee of Social Rights:

- Find Hungary in violation of Article 2 of the Charter for establishing working time rules that do not meet European minimum standards for health, safety, and rest.
- Urge Hungary to revise its working time regulations to bring them into conformity with Directive 2003/88/EC and the principles of the Charter.
- Find Hungary in violation of Article 5 of the European Social Charter for abolishing the right of association for soldiers through a constitutional ban.
- Find Hungary in violation of Article 6 for denying professional soldiers access to collective bargaining mechanisms and the right to resolve labour disputes through independent procedures.
- Recommend that Hungary reinstate the full right to trade union representation for military personnel, in line with Charter obligations and relevant jurisprudence.
- Express serious concern about the indefinite suspension of the right to unilaterally terminate service, which contributes to a broader erosion of basic freedoms under the pretext of a continuous emergency.