

ROUND-TABLE

Professional Policing: Treatment of Apprehended Persons and Consequences

University of Public Service, Budapest, Ludovika square 2.

12-13 October 2022

On 12-13 October 2022, the Council of Europe, the Ministry of Justice and the National University of Public Service (hereinafter: the NKE) jointly organised a two-day event in the St. László Chapel of the Ludovika Main Building on the execution of the decisions of the European Court of Human Rights on the subject of ill-treatment by the police and prevention of ill-treatment. The international conference was moderated by Zoltán Tallódi, Head of the Human Rights Department of the Ministry of Justice.

The meeting was opened by János Bóka, Secretary of State responsible for European Affairs, Ministry of Justice. Attila Kiss, Head of Cabinet, Secretariat of State for Law Enforcement represented the Ministry of Interior, Christophe Poirel, Director of Human Rights represented the Directorate General Human Rights and Rule of Law of the Council of Europe, Balázs Könnöy, Secretary General represented the Office of the Commissioner for Fundamental Rights, and Nico Hirsch, Former Deputy Director General of the Grand Ducal Police represented the European Committee for the Prevention of Torture (CPT), as its member elected in respect of Luxembourg.

In addition to international representatives of the judicial profession and human rights enforcement, the internationally important event also featured lectures by academics from the Law Enforcement Faculty of the NKE. Among the speakers were several CPT members, such as Asbjorn Rachlewe, a lecturer at the Norwegian Police College, Marios Anastasi, CPT member-elect for Cyprus, Gergely Fliegauf, psychologist and criminologist, CPT member-elect for Hungary, and Nico Hirsch.

The conference discussed the following four topics:

1. Overview of the current legislative and regulatory framework and persisting challenges

In this session the current legislation on the investigation and prosecution of police ill-treatment was assessed. The discussion covered the impact of the recently adopted legislative and regulatory measures, among others, the increase of the statutory sentences for ill-treatment by law enforcement agents during performance of their duties and the consequent extension of the prescription period in 2013, the assignment of the National Complaint Mechanism (NCM) function to the Commissioner of Fundamental Rights, the extension of his competencies in 2015 and the adoption of the new Law on Criminal Procedure in 2017. The session focused on the actual implementation of the above measures by all relevant actors and on the possible need for any further improvement, including any further legislative/regulatory reforms.

In this context, *Sándor Gömbös*, Registrar of the Hungarian National Police Headquarters Office, gave a presentation entitled “Police treatment of detainees and its legal safeguards - legislative and regulatory background”, in which he discussed Act XXXIV of 1994 on the Police, Act C of 2012 on the Criminal Code, Act XC of 2017 on Criminal Procedure, and certain provisions of Act CCXL of 2013 on the Enforcement of Penal Sanctions, Measures, Certain Coercive Measures and the Imprisonment of Offenders, as well as the role of the National Preventive Mechanism. *József Palló*, Associate Professor and Vice Dean of Science at the NKE, presented an overview of the current legislative and regulatory framework and persisting challenges, with a particular focus on the impact of the recently adopted legislation and other regulations, and the legislative expectations for the future. *Lilla Vukovich*, representing the Department for the Execution of ECHR Judgments, provided the participants with an insight into the course of the execution of the ECtHR judgments, highlighting the violations of the Convention found in the Gubacsi case group and the specific and general measures needed.

2. Effective safeguards against ill-treatment

During the discussion, concrete measures were identified, which improve safeguards aimed at combatting ill-treatment mainly during arrest and in police custody. The discussions also covered the facilitation of video recording of interrogations, the practical possibility and feasibility of installing audio and video recorders in police vehicles and the ways to improve the possibility of providing detainees with prompt medical examination facilities if required. The latter topic included a discussion on improving the quality of medical examinations of detainees in police detention facilities complaining of ill-treatment, the possibility of establishing an independent medical examination body mandated to examine alleged victims of ill-treatment and the need to ensure full confidentiality of detainees’ medical examinations in practice and the completeness of their police files in this respect. The topic also covered the issue of facilitating the detainees’ right to contact a third person and to prompt access to an ex officio lawyer.

A presentation was given by Police Inspector *Asbjørn Rachlew*, a lecturer at the Norwegian Police College and researcher at the Norwegian Centre for Human Rights at the University of Oslo, and member of the CPT elected in respect of Norway, who described the importance of mental and technical preparation for effective interrogation through his personal experience. *Zsolt Török*, Chairman of the Military Council of the Budapest-Capital Regional Court of Appeal, examined the issue from the perspective of the judges. Lieutenant Colonel *Anikó Serfőző* presented the ORFK Order issued in order to implement the CPT Recommendations, the statistics recorded on complaints regarding treatment and other relevant legal provisions. *Gergely Fliegauf*, approached the issue from the perspective of young people, with his presentation on “Guarantees against ill-treatment, with special regard to young people”. He described the adolescents' attitude to their detention and the impact of ill-treatment, stressing that adolescents develop not only from a psychological but also from a criminological point of view.

3. Developing an institutional culture of zero tolerance towards ill-treatment

The session discussed the need of “zero tolerance” messages at the highest possible level towards ill-treatment in law enforcement, and of delivering the firm message, through instructions and regular briefings from the police leadership and management and through appropriate in-service trainings, that police officers will be held accountable for having inflicted, instigated or tolerated any act of ill-treatment. The session covered the necessity of widespread and systematic training of law enforcement officials (including low ranking officials) in human rights compatible policing including apprehension, interviewing and other law enforcement operations and the possibility of developing guidelines for the Convention - compliant conduct of arrests and interrogations. The discussion also covered the need to eradicate racially motivated ill-treatment and discriminatory behaviour by members of the police force, including by strengthening efforts to ensure that the composition of the police force reflects the diversity of the population.

Nico Hirsch addressed the issue of developing an institutional culture of zero tolerance of police ill-treatment, based on the CPT findings and reports. Lt Colonel *Richárd Darvasi*, Head of Unit, Police Training Academy, Police Education and Training Centre, presented the current training and further training courses in the field of policing. *Andrea Tünde Barabás*, CSc. Professor, Head of Department of Criminology of the NKE presented the development of an institutional culture of zero tolerance towards ill-treatment.

4. Complaint mechanisms and effective investigations into police ill-treatment

This session discussed the important issues related to the effectiveness of investigations into police ill-treatment cases and the possible measures to be taken to address the shortcomings identified by the European Court in its relevant judgments (among others, failure to hear the victim, 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). In this context, a discussion was also held on the impact of the centralisation of investigations into police ill-treatment by specific prosecution authorities since 2019.

In addition, further to the observations made by the CPT in its latest country report on Hungary with respect to the reluctance of alleged victims of police ill-treatment to lodge official complaints with the competent authorities, the panel discussion covered the questions raised by these findings concerning notably the accessibility and effectiveness of police complaint mechanisms in Hungary. The session provided an opportunity to discuss the National

Preventive Mechanism (NPM) function of the Commissioner for Fundamental Rights and the need to strengthen its functional independence and funding, to increase the human and financial resources allocated and its capacity to carry out additional preventive work other than detention monitoring.

István Sárközy, Chief Officer of the Department for OPCAT of the Office of the Commissioner for Fundamental Rights gave a presentation on “Complaint procedures and effective investigation of police ill-treatment - from the perspective of the National Preventive Mechanism”, presenting the legal provisions, statistical data, investigation methods and finally the main findings of the report on the NPM. Lieutenant Colonel *Tímea Tamás*, Head of Unit for the Central Complaints Office, gave a presentation discussing the tasks, findings and recommendations of the Central Complaints Office, as well as the statistical data of the report summarising the evaluation of the experience gained in the investigation of the complaints submitted. *Zsanett Fantoly*, Professor, Head of Department of Criminal Procedure Law of the NKE, reviewed important issues related to the effectiveness of the investigation of police ill-treatment cases. Major *Norbert Ifi*, deputy chief prosecutor, Central Chief Prosecution Office of Investigation, examined the current legal issues of investigating ill-treatment in official proceedings.

The participants unanimously considered the two-day international conference to be a forward-looking one and concluded that they had gained directly useful experience. This was confirmed by the closing remarks of *József Palló*, Vice-Dean for Science, who emphasised that the conference had brought theory and practice closer together in a value-adding way.