



Hungarian Helsinki Committee

HUNGARIAN HELSINKI COMMITTEE

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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: NGO communication with regard to the execution of the judgments of the European Court of Human Rights in the cases *Varga and Others v. Hungary* and *István Gábor Kovács v. Hungary* (Application no. 14097/12 and 15707/10)

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 cases *Varga and Others v. Hungary* and *István Gábor Kovács v. Hungary* (Applications no. 14097/12 and 15707/10) on **prison overcrowding and inhuman and degrading detention conditions**.

The present communication is a follow-up to the HHC's communication of 20 January 2020. In that, we outlined the Hungarian Government's recent statements on (i) intending to suspend compensation payments that are due to inmates detained under inhuman and degrading conditions under a Hungarian law adopted after the pilot judgment in the *Varga and Others v. Hungary* case, and on (ii) intending to amend the remedy scheme introduced with the purpose of executing the pilot judgment. Since the submission of our previous communication, **the Government's formal resolution on suspending compensation payments to detainees was promulgated**, with the following text:

Resolution 1004/2020. (I. 21.) of the Government on the immediate action against abusing the compensation procedures launched due to prison overcrowding

It is the Government's position that certain convicted criminals and their aids use the compensation procedures launched with reference to prison overcrowding in an abusive manner, for their own enrichment, which justifiably violates the sense of justice of the society and, in particular, that of the victims of criminal offences, and so preventing this demands immediate action.

To that end, the Government calls on the Minister of Justice

1. to suspend, without delay, the payment of compensations due to prison overcrowding in individual cases until the latest possible date under the [respective] laws;
Person responsible: Minister of Justice
Deadline: immediately
2. To review, without delay, the regulation in force, and inform the Government about the result of that review.
Person responsible: Minister of Justice
Deadline: immediately



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In practice, Section 1 of the Government resolution will mean that compensation payments will still be paid (and will still be awarded), but the act of payment will be pushed to the latest date legally possible. However, even though the resolution has moderate consequences in practice in this sense, it still raises serious concerns as to the execution of the pilot judgment in the *Varga and Others v. Hungary* case as follows.

The wording of the resolution, e.g. the references to the "abuse" of procedures, taken together with the wording of previous government statements, **clearly foreshadows the envisaged direction of future amendments to the remedy system, i.e. the cutting back (or even the complete elimination) of the domestic system of remedies** to be provided to detainees for substandard prison conditions.

- Firstly, this is problematic because **the compensation scheme is a requirement under the pilot judgment, and is an integral part of the domestic remedy system set up after the pilot judgment.** (See our Rule 9 communication of 20 January 2020 for more details.)
- Secondly, the Government resolution constitutes **a blatant disregard for the enhanced supervision process** of the execution of the judgments in question **by the Committee of Ministers of the Council of Europe.** This is especially so if we consider that **the Government's latest action plan from 2019¹ does not indicate in any way that the Government intends to disrupt the existing system** as introduced after the pilot judgment.

RECOMMENDATIONS

Due to the reasons above, the HHC respectfully recommends the Committee of Ministers to call on the Government of Hungary to

- **to make it clear both to the general and professional public that compensation payments will continue to be paid to inmates detained under inhuman and degrading detention conditions;**
- **and enter into a constructive dialogue with the Committee of Ministers on any future plans to amend the compensation and preventive remedy scheme.**

Furthermore, with a view to the (i) steps taken by Hungary in direct defiance of the enhanced supervision process, and (ii) the importance of the issue to the functioning of the Convention system, the HHC respectfully calls on the Committee of Ministers

- **to debate the cases in question already at the 1369th (Human Rights) meeting of the Ministers' Deputies in March 2020; and**
- **to adopt an interim resolution, making it clear that the Hungarian Government's recent actions go against the spirit of Convention system, and in particular the expectation to cooperate with the Committee of Ministers in terms of the execution of judgments by the European Court of Human Rights.**

Sincerely yours,

András Kristóf Kádár
co-chair

Hungarian Helsinki Committee

¹ DH-DD(2019)311, [http://hudoc.exec.coe.int/eng?i=DH-DD\(2019\)311E](http://hudoc.exec.coe.int/eng?i=DH-DD(2019)311E)