



Hungarian Helsinki Committee

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Hungarian Helsinki Committee *UPR Fact sheet 4*

RIGHTS VIOLATIONS BY OFFICIALS

1. The lack of independent medical examination of victims of ill-treatment: The independent medical examination of persons who claim to have been ill-treated by officials is not guaranteed. Physicians employed by the Police or the penitentiary institution examine detainees before their placement in the respective detention facilities and record their health status, including potential injuries. Thus, a detainee making allegations of ill-treatment does not have the right to be examined by a medical expert who is fully independent from the detaining authority. In terms of a recently issued order of the National Chief of Police, **absence of law enforcement personnel at medical examinations is the exception and not the rule**, and the detainee's request to this end is decided on by the commander of the guards, not the physician.

2. Prosecutorial and judicial practice in ill-treatment cases: According to available statistics, very few reports on official ill-treatment cases lead to indictment and the success rate of the prosecution is significantly smaller in ill-treatment cases than in relation to any other offence. Besides the difficulties of proving such cases, this may be attributed to a certain lenience on the part of the authorities, which can be demonstrated by the mild sentences in case of the relatively few convictions.¹

3. The Independent Police Complaints Body: The Body (see § 70 of the National report) investigates violations and omissions committed by the Police, provided that such violations and omissions substantively concern fundamental rights. However, there are certain **deficiencies concerning the Body's mandate**, including the fact that (i) the Body is not vested with the right to hear police officers: the officers are free to decide whether or not they give a statement upon the Body's inquiry; (ii) the Body is not vested with the right to interfere with the judicial review of the National Police Chief's decisions; (iii) it is understaffed compared to its growing workload.

? Questions:

- What kind of measures will be taken in order to ensure that persons deprived of their liberty who claim to have been ill-treated by officials have access to independent medical examination?
- What kind of measures will be taken in order to ensure that police officers are not present at the medical examination of detainees as a rule?
- What kind of measures will be taken in order to ensure that effective remedy is provided to victims of ill-treatment?
- What kind of measures will be taken in order to address the deficiencies as to the mandate of the Independent Police Complaints Body?

! Recommendations:

- Persons deprived of their liberty who claim to have been ill-treated by officials should have access to independent medical examination.
- It should be ensured that police officers are not present at the medical examination of detainees as a rule.
- Effective remedy should be provided to victims of ill-treatment by officials.
- Steps should be taken in order to address the deficiencies as to the mandate of the Independent Police Complaints Body.

¹ For the relevant statistics and further information, see:

http://www2.ohchr.org/english/bodies/hrc/docs/ngos/HelsinkiCommittee_Hungary_HRC100.pdf, pp. 9-10.