

**I. National Courts**

## I.1. Courts

## I.2. The Constitutional Court

**II. National Human Rights Institutions, Ombudsperson**

## II.1. The Commissioner for Fundamental Rights

## II.2. Specialised human rights bodies

## II.2.1. The Hungarian National Authority for Data Protection and Freedom of Information

## II.2.2. The Equal Treatment Authority

## II.2.3. The Independent Police Complaints Board

**III. Other**

## III.1. The Hungarian prosecution service

## III.2. Victim support

## III.3. Legal aid

**I. National Courts****I. 1. Courts****1. Tasks**

Under the Fundamental Law of Hungary (Hungary's constitution), the job of the courts is the administration of justice. This means adjudicating in criminal cases and private legal disputes, ruling on the legality of administrative decisions and municipal decrees and establishing whether a local authority has failed to fulfil its statutory legislative obligations. The law may also assign other cases to be decided by a court.

The principles guaranteeing judicial independence are laid down in the Fundamental Law: judges are subject only to the law, they may not be given instructions on their adjudication activities and they may be removed from office only on the grounds and under the procedures specified by law. They may not be members of a political party or engage in political activities.

**2. Organisation**

In Hungary the task of administering justice is carried out by the Curia (*Kúria*) of Hungary, the regional courts of appeal, the regional courts, the district courts and the administrative and labour courts.

There is no hierarchical relationship between the various judicial levels. Courts higher in the hierarchy do not have the power to instruct those lower in the hierarchy. Judges hand down their decisions in accordance with the law and their moral convictions.

**District courts (*járásbírószékek*)**

Most cases at first instance are heard by district courts. Adjudication in Hungary currently takes place at 111 district courts. The Hungarian term for the district courts in Budapest is "*kerületi bíróság*". A total of six unified district courts (*egyesített kerületi bíróság*) operate in the 23 districts of Budapest. District courts are courts of first instance and are presided over by a president.

**Administrative and labour courts**

Hungary has 20 administrative and labour courts, which, as their name indicates, deal exclusively with administrative and labour cases. Their primary task is to review administrative decisions and to adjudicate in cases arising from employment relationships and quasi-employment relationships.

**Regional courts (*törvényszékek*)**

Regional courts act as courts of first or second instance. A case may be referred to a regional court by one of two methods. One method is when a judgment handed down at first instance (in other words, at a district court or an administrative and labour court) is appealed by an interested party. However, some cases start in a regional court, in which case these courts act as courts of first instance. Procedural laws (the Code of Civil Procedure and Criminal Procedure Act) determine which cases are concerned, for instance on the basis of the size of the amount involved in the case, or whether it constitutes a special case or involves a particularly serious criminal offence. Regional courts have panels, groups and criminal, civil, economic, and administrative and labour divisions operating under the president.

**Regional courts of appeal (*ítélőtáblák*)**

The five regional courts of appeal represent a level between the regional courts and the Curia and were created to lessen the burden on the former Supreme Court. Appeals against decisions of the regional courts are adjudicated by the regional courts of appeal. Regional courts of appeal are courts of third instance in criminal cases where a regional court was the court of second instance. Regional courts of appeal have panels and criminal and civil divisions operating under a president.

**Curia of Hungary**

The Curia is at the top of the judicial hierarchy and is headed by its President. Its most important duty is to establish uniform and consistent judicial practice. The Curia carries out this duty by handing down what are known as uniformity decisions. These decisions provide guidance in terms of principle and are binding on the courts.

The Curia

rules on appeals against decisions of regional courts or regional courts of appeal in cases specified by law:

assesses review requests;

hands down uniformity decisions, which are binding on the courts;

carries out case-law analyses in cases that have been closed and have become final and within this framework investigates and examines the courts' case-law;

publishes court decisions on principles;

takes decisions on whether municipal decrees conflict with other legislation and are to be annulled;

takes decisions finding a local authority to be in breach of its statutory legislative obligations.

The Curia has panels on adjudication, uniformity decisions, local authorities and the issuing of principles; as well as criminal, civil, and administrative and labour divisions, and groups analysing case-law.

### **National Office for the Judiciary (*Országos Bírósági Hivatal*) and National Judicial Council (*Országos Bírói Tanács*)**

The president of the National Office for the Judiciary (NOJ) carries out centralised tasks related to the administration of courts, exercises managerial powers under the courts chapter of the Budget Act and oversees the administrative activities of the presidents of regional courts of appeal and regional courts. The National Judicial Council (NJC), an independent body elected by judges and made up of judges exclusively, is the supervisory board for the centralised administration of courts. In addition to its supervisory tasks, the NJC is also involved in the administration of the courts.

### **3. Contact details**

Országos Bírósági Hivatal

Address: 1055 Budapest, Szalay u. 16.

Postal address: 1363 Budapest Pf.: 24.

Telephone: +36 (1) 354 41 00

Fax: +36 (1) 312-4453

[obh@obh.birosag.hu](mailto:obh@obh.birosag.hu)

Email: [The website of the courts](#)

## **I.2. The Constitutional Court**

### **1. Tasks**

The Constitutional Court (*Alkotmánybíróság*) is the main body for the protection of the Fundamental Law. Its duties consist of protecting the democratic rule of law, constitutional order and rights guaranteed by the Fundamental law, safeguarding the internal consistency of the legal system and enforcing the principle of division of powers.

The Constitutional Court was created by the National Assembly in 1989. The Fundamental Law lays down the fundamental rules concerning the duties and the *raison d'être* of the Constitutional Court, while the main outlines of organisational and procedural rules are contained in the Constitutional Court Act. Detailed rules on procedures of the Constitutional Court are set down in the Rules of Procedure.

### **2. Organisation**

The Constitutional Court is a body made up of fifteen members. Its members are elected by the National Assembly by a two-thirds majority with a mandate for twelve years. To become a judge of the Constitutional Court a person must be a distinguished academic lawyer or have at least twenty years of professional experience in a legal field. The president of the Constitutional Court is elected by the National Assembly from among the judges of the Constitutional Court for his or her term as a Constitutional Court judge.

The Constitutional Court sits in plenary, in five-member panels or as a single judge. Decisions on the constitutionality of laws and other major cases are taken by the plenary.

The Office of the Court carries out organisational, operational, administrative and decision-making tasks. The Office is headed by the secretary-general, who is elected by the plenary on a proposal from the president.

### **3. Powers**

#### **Preliminary examination of conformity with the Fundamental Law**

The initiator of a law, the Government or the President of the National Assembly may ask the National Assembly to submit an adopted law to the Constitutional Court for constitutional review in order to examine its conformity with the Fundamental Law.

In addition, the President of the Republic is obliged to submit a law adopted by parliament to the Constitutional Court instead of signing it, if he or she considers it or any of its provisions to be contrary to the Fundamental Law, in order for the Court to examine whether it is in conformity with the Fundamental Law. If the Constitutional Court establishes that the law examined is contrary to the Fundamental Law, the law cannot be promulgated.

#### **Ex post review of conformity with the Fundamental Law (ex post review procedure)**

This procedure, introduced in 2012, may be initiated by the Government, one quarter of Members of Parliament, the Commissioner for Fundamental Rights, the President of the Curia or the Prosecutor General.

The Constitutional Court annuls any contested provision it finds to be contrary to the Fundamental Law under this procedure.

#### **Initiation of an individual review procedure by a judge**

A judge who, when hearing a case, considers that the law to be applied is contrary to the Fundamental Law must ask the Constitutional Court to examine and suspend the proceedings. In a case initiated by a judge, the Constitutional Court may rule that the law or legal provision is contrary to the Fundamental Law and declare it inapplicable in the specific case or even in general.

#### **Constitutional complaints**

A constitutional complaint is one of the most important tools for the protection of fundamental rights. It may primarily be used where the complainant's fundamental rights provided for by the Fundamental Law have been infringed in the course of a court judgment being handed down. Such an infringement may occur in the course of court proceedings relating to the case when a law that is contrary to the Fundamental Law is applied, or if a decision handed down on the merits of the case itself or any other decision concluding the court proceedings is contrary to the Fundamental Law. A constitutional complaint may exceptionally be filed if the complainant's fundamental rights have been directly infringed in a case without a court decision. The Constitutional Court will then annul any law or judgment it finds to be contrary to the Fundamental Law.

#### **Examination of conflicts with international agreements**

Under The Constitutional Court Act, a Hungarian law may be examined for compliance with an international agreement. The procedure may be initiated by one quarter of Members of Parliament, the Government, the Commissioner for Fundamental Rights, the President of the Curia, the Prosecutor General or a judge with regard to the law to be applied in a case.

The Constitutional Court may fully or partially annul any law it finds to be in conflict with an international agreement, and call upon the legislature to take the measures necessary for resolving the conflict before a set deadline.

#### **Additional powers**

The Constitutional Court interprets the provisions of the Fundamental Law concerning any specific constitutional issue on a proposal by the National Assembly or its permanent committee, the President of the Republic or the Government, if such interpretation may be derived directly from the Fundamental Law.

Anyone may file a proposal for the Constitutional Court to review a decision by the National Assembly calling a referendum or rejecting the calling of a mandatory referendum.

The National Assembly may dissolve the body of representatives of a local authority or a minority self-government if it operates in a manner that is contrary to the Fundamental Law. Prior to this the Constitutional Court delivers its opinion on the case at the initiative of the Government.

The Constitutional Court conducts the procedure to remove the President of the Republic from office on a proposal from the National Assembly.

The Constitutional Court may decide on questions of conflicts of powers between State bodies and between State and local government bodies.

The Constitutional Court may establish ex officio that a measure is contrary to the Fundamental Law because of a legislative omission, in which case it calls upon the body responsible for the omission to correct it.

#### **4. Contact details**

Address: 1015 Budapest, Donáti u. 35–45.

Postal address: 1535 Budapest, Pf. 773.

Telephone: +36 (1) 488 31 00

[The website of the Constitutional Court](#)

[Facebook page](#)

## **II. National Human Rights Institutions, Ombudsperson**

### **II.1. The Commissioner for Fundamental Rights (*Az Alapvető Jogok Biztosa*) (a United Nations National Human Rights Institution)**

#### **1. The Commissioner for Fundamental Rights**

In accordance with the Fundamental Law of Hungary, the National Assembly also adopted the Act on the Commissioner for Fundamental Rights, creating a new, uniform ombudsman system.

The Commissioner for Fundamental Rights is accountable only to Parliament. The Ombudsperson takes independent action in the course of its procedure based exclusively on the Fundamental Law and other laws. The Ombudsperson is elected by two thirds of the votes of the representatives of the National Assembly on a proposal by the President of the Republic for six years and reports annually on their work to the National Assembly.

The Commissioner for Fundamental Rights is eligible for re-election once. Under the Act on the Commissioner for Fundamental Rights, two deputies work alongside the Commissioner for Fundamental Rights: the Deputy Commissioner responsible for the protection of the interests of future generations and the Deputy Commissioner responsible for the protection of the rights of ethnic minorities living in Hungary. The Commissioner elected by the National Assembly proposes the deputies, who are also elected by the National Assembly.

#### **2. Procedure and action**

The primary task of the Ombudsperson is to investigate abuses related to fundamental rights and to initiate general or specific measures to remedy them.

Within the limits set by the law governing their powers, the Ombudsperson chooses the action they consider appropriate, which may be:

a recommendation to remedy the abuse related to fundamental rights addressed to the supervisory body overseeing the body that caused the abuse,

a remedy for the abuse initiated with the head of the body concerned,

a proposal for the Constitutional Court procedure,

initiation of a review by the Curia of the compatibility of a municipal decree with other legislation,

through the Prosecutor General, initiation of action to be taken by the prosecution service,

initiation of a procedure to hold a person accountable before the competent body, if the Ombudsman becomes aware of a reasonable suspicion of a minor offence or disciplinary offence having been committed; if the offence is a criminal offence, the procedure must be initiated,

a proposal to amend, repeal or publish legislation or a legal instrument of state administration by a body authorised to legislate or issue legal instruments of state administration,

as a final measure, submission of a case to the National Assembly as part of the annual report.

Any person who considers that the acts or omissions of an authority have breached their fundamental rights or directly threaten to do so may apply to the Commissioner for Fundamental Rights, provided that the person has exhausted all available possibilities for administrative remedies – excluding any judicial reviews of administrative decisions – or has no remedy available.

The Commissioner for Fundamental Rights and the Deputy Commissioners monitor the enforcement of the rights of ethnic minorities living in Hungary and the interests of future generations.

The Commissioner for Fundamental Rights may not examine the activities of the National Assembly, the President of the Republic, the Constitutional Court, the State Audit Office of Hungary or the prosecution service, with the exception of the investigative body of the prosecution service.

The Commissioner may not take action, if

more than a year has passed since the final administrative decision in the case complained of was published,

the procedure started before 23 October 1989,

court proceedings have been brought to review the administrative decision or a final judicial decision has already been handed down,

the person filing the submission has not disclosed their identity and the investigation cannot be conducted without this information.

No one may be discriminated against for having recourse to the Commissioner for Fundamental Rights.

Means of submitting a complaint:

electronically: by using the “*Ügyet szeretnék indítani*” (I wish to launch a case) item on the menu of the [www.ajbh.hu](http://www.ajbh.hu) website, or with the help of the “*Intelligens Űrlap*” (Intelligent form) to be found on the website.

by email: [panasz@ajbh.hu](mailto:panasz@ajbh.hu)

in person at the Complaints Office of the Office of the Commissioner for Fundamental Rights (Budapest V. ker., Nádor u. 22.), by making an appointment

by post: Alapvető Jogok Biztosának Hivatala (Office of the Commissioner for Fundamental Rights) 1387 Budapest Pf. 40.

The submission and the procedure conducted by the Commissioner are free of charge. A copy of the documents generated so far in the case and the documents necessary for its assessment should be attached to the submission.

#### **3. Public interest disclosures**

Under the Act on complaints and public interest disclosures, as of 1 January 2014 public interest disclosures may also be made through a protected electronic system operated by the Commissioner for Fundamental Rights. Public interest disclosures draw attention to circumstances the remedying or elimination of which serve the interests of the community or society as a whole. A public interest disclosure may also include a recommendation.

Methods of submitting public interest disclosures:

electronically through the protected electronic system (<https://www.ajbh.hu/kozerdeku-bejelentes-benyujtasa>) or

in person at the Complaints Office of the Office of the Commissioner for Fundamental Rights (Budapest V. ker., Nádor u. 22.), by making an appointment.

#### **4. OPCAT National Preventive Mechanism**

Since 1 January 2015, the Commissioner for Fundamental Rights has, personally or through his staff, been acting as the national preventive mechanism in Hungary of the Optional Protocol to the Convention Against Torture (OPCAT) of the UN against torture and other cruel, inhuman or degrading treatment or punishment. The tasks of the national preventive mechanism involve:

inspecting places of detention for prevention purposes and further to reports

interviewing detainees

studying documentation

sending feedback

consultation with authorities

formulating recommendations

drawing up reports

## **5. Contact details**

Address: 1051 Budapest, Nádor utca 22.

Postal address: 1387 Budapest Pf. 40.

Telephone: (+36-1) 475-7100

Fax: (+36-1) 269-1615

Email: [panasz@ajbh.hu](mailto:panasz@ajbh.hu)

Website: <http://www.ajbh.hu/hu>

## **II.2. Specialised human rights bodies**

### **II.2.1. The Hungarian National Authority for Data Protection and Freedom of Information**

#### **1. Tasks and organisation**

The right to the protection of personal data and the right to disclosure of information of public interest are fundamental constitutional rights: Article VI. of the Fundamental Law of Hungary states that:

(1) Everyone shall have the right to respect for his or her private and family life, home, communications and reputation.

(2) Everyone shall have the right to protection of his or her personal data, as well as to have access to and disseminate information of public interest.

(3) An independent authority created by means of a cardinal act shall supervise the enforcement of the right to the protection of personal data and the right of access to data of public interest.

The Hungarian National Authority for Data Protection and Freedom of Information (*Nemzeti Adatvédelmi és Információszabadság Hatóság* - NAIH) replaced the data protection ombudsman who operated between 1995 and 2011.). Since 1 January 2012 the NAIH has been helping guarantee information rights through additional regulatory means (such as imposing data privacy fines).

The substance of these rights, the obligations of data controllers and the organisation and procedures of the NAIH are laid down in the Information Act (Act CXII of 2011 on the right to informational self-determination and freedom of information), but the detailed requirements of specific data-processing procedures are contained in other relevant legislation (such as the Police Act and the Public Education Act). Under Section 1 of the Information Act, the law aims to protect the private spheres of natural persons and to ensure the transparency of public affairs.

The NAIH is an independent, autonomous government body, its president is appointed for nine years by the President of the Republic on a proposal from the Prime Minister and its organisational structure is made up of departments.

#### **2. Powers**

The main task of the NAIH is to conduct investigations in matters of data protection and freedom of information based on reports and complaints (submitted on-line, in writing or in person) and to conduct administrative proceedings ex officio for data protection (if the suspected infringement concerns many people or may cause considerable harm to interests or considerable damage).

In addition, the Authority may conduct administrative proceedings ex officio for the control of classified data, refer infringement cases related to information of public interest or information which is public for reasons of public interest to a court, and intervene in court actions. It also keeps a data protection register.

The Authority's powers also include giving opinions on relevant legislation, representing Hungary on common EU data protection boards and conducting data protection audits – for a fee – at the request of the controller.

#### **3. Contact details**

Address: 1125 Budapest Szilágyi Erzsébet fasor 22/C.

Postal address: 1530 Budapest, Pf.: 5.

Telephone: (+36-1) 391-1400

Email: [ugyfelszolgalat@naih.hu](mailto:ugyfelszolgalat@naih.hu)

Website: <http://www.naih.hu/>

### **II.2.2. The Equal Treatment Authority**

#### **1. Tasks and organisation**

Under the Act on equal treatment and the promotion of equal opportunities, enforcement of the requirement of equal treatment in Hungary is overseen by the Equal Treatment Authority (*Egyenlő Bánásmód Hatóság*), with competence over the entire territory of the country. The Authority is an autonomous government body, independent and subject only to the law. It may not be bound by instructions and carries out its tasks separately from other bodies and free of undue influence. Tasks may only be delegated to the Authority by law. The Authority is headed by a president appointed for nine years by the President of the Republic on a proposal from the Prime Minister.

The primary task and principal activity of the Authority is to investigate complaints and reports it receives concerning matters of discrimination. The work of the Authority is assisted by a network of equal treatment desk officers providing national coverage.

Under the Act, infringement of the requirement of equal treatment (discrimination) means discrimination against a person on the grounds of a real or perceived protected characteristic.

The protected characteristics under the Act are:

gender

race

skin colour

nationality

national affiliation

native language

disability

health status  
religious or philosophical belief  
political or other opinion  
family status,  
motherhood (pregnancy) or fatherhood  
sexual orientation  
gender identity  
age  
social origin  
property  
part-time nature or fixed duration of his or her employment relationship or quasi-employment relationship  
membership of an association for the representation of interests  
other status, feature or characteristic

In the 'other status' category, features and characteristics not listed in the Act but of a similar nature may be taken into account as protected characteristics in accordance with the Authority's interpretation of the law.

The Authority investigates infringements affecting persons and groups whose protected characteristics are very broadly defined under the Act. Typically it acts at the request of the person or persons who suffered the discrimination, but it is possible for civil society organisations or representative associations to initiate a procedure before the Authority where an infringement or threat of infringement affecting a group with protected characteristics has occurred. The Authority may act ex officio against the Hungarian State, local governments and minority self-governments, their bodies, organisations acting in the capacity of public authorities, the Hungarian Defence Forces and law enforcement agencies. The most typical areas for the Authority's investigations are employment, social security, healthcare, housing, education, and provision of goods and services.

## 2. Powers

The Authority conducts its investigations within the framework of administrative proceedings. Special rules of evidence are applicable during the proceedings. The injured party (the applicant) must demonstrate that he or she has been disadvantaged and at the time of the infringement actually had – or was presumed by the offender to have – a protected characteristic defined by law. If the applicant has fulfilled the obligation to produce such evidence, the other party (the party subject to the proceedings) must prove that the circumstances supported by the evidence produced by the injured party did not occur or that it complied with the requirement of equal treatment or was not obliged to comply with it in the given legal relationship.

The Authority always endeavours to reach a settlement between the parties before handing down its decision and, if this is successful, approves the settlement. If the parties do not reach a settlement, the Authority hands down a decision on the merits of the case based on the investigation it has conducted. If the Authority establishes that the requirement of equal treatment has been infringed, as a penalty it may order the elimination of the unlawful circumstances, forbid the unlawful conduct in the future, order the public disclosure of its final decision establishing the infringement, impose a fine ranging from HUF 50 000 to HUF 6 million and apply further legal consequences defined in special legislation. The decision of the Authority may not be appealed through administrative channels, but may be reviewed by the Administrative and Labour Court in administrative litigation.

The Authority also has a number of other tasks defined by law in addition to investigating specific discrimination cases. For instance, these include providing information and assistance to those concerned in order to take action against equal treatment infringements, issuing opinions on draft legislation concerning equal treatment, proposing legislation on equal treatment, providing the public and the National Assembly with information on the state of equal treatment enforcement, cooperating with civil society organisations and international organisations, etc.

The Authority is a member of the European Network of Equality Bodies (Equinet), which unites over 40 member organisations from 33 European countries operating as national bodies for equal treatment in their own countries. The Authority's staff take part in the work of thematic Equinet working groups, as well as training sessions and seminars organised several times a year in order to keep up to date with the most recent achievements in the international development of equal treatment law and to exchange experiences with the representatives of European organisations carrying out tasks similar to those of the Authority.

The Authority regularly participates in events and thematic projects of the European Union Agency for Fundamental Rights (FRA) and the European Commission against Racism and Intolerance (ECRI) of the Council of Europe as part of its international relations.

Detailed information concerning the Authority is available on its website.

## 3. Contact details

Seat: 1013 Budapest, Krisztina krt. 39/B

Telephone number: (+36-1) 795-2975

Fax number: (+36-1) 795-0760

Website: <http://www.egyenlobanasmod.hu/>

### II.2.3. The Independent Police Complaints Board

#### 1. Tasks and organisation

In 2008 the National Assembly decided to establish the Independent Police Complaints Board (*Független Rendészeti Panasztestület*) for the purpose of creating a special institution for complaints against police procedures. This institution is made up of members elected by the National Assembly for a period of six years. The members have a diploma in law, are not bound to take instructions from anyone and the grounds for their rules of procedure are laid down in law.

The legal context of the Board's work is primarily governed by the Police Act. The purpose of the Board is to investigate complaint procedures within the remit of the Police, but independently of hierarchical relationships, from the perspective of the protection of fundamental rights. Thus the operations of the Police are reviewed by the Board based on specific complaints in individual cases, and not in general, in the abstract.

#### 2. Powers and procedure

##### Who may file a complaint, when and how?

A complaint may be filed by any person regardless of their nationality:

who was the subject of a police measure or who is affected by a police measure

or for whom the police failed to take the required action

or who was subjected to coercive measures by the police and feels that his or her fundamental rights were restricted or human rights infringed as a result.

The complaint may be filed in person, by proxy or through his legal representative (in the case of a minor or a person lacking capacity, through his legal representative). This must be done within 20 days of the police's measure, failure to act or coercive measure or, if the complainant did not become aware of this until later on, within 20 days from the date when they did become aware of it. The complaint may be filed by post (in which case the complainant must



personally sign the submission), by fax or email through the Board's website, or in person during the Board's business hours (after making an appointment by telephone).

If an objective obstacle prevented the complainant from filing the submission within the time-limit, the delay may be excused, if the complainant provides justification for late submission (for instance, long-term hospital treatment) within six months.

A person who missed the 20-day time-limit but is still within thirty days of the occurrence (or of becoming aware of it) may apply to the head of the police body (chief of police or commissioner of police) where the officers applied the measures complained of and still fall within the time-limit. In such cases the head of the police station will conduct the complaint procedure.

#### **What does the Board examine?**

the requirement to carry out police duties and instructions, breaches of such duties and instructions or failures to carry them out (in particular: requirement to take measures, proportionality, identifiability, obligation to provide assistance, etc.),

police measures or failures to take police measures, their lawfulness (in particular: identity checks, examination of clothing, baggage and vehicle, arrests, taking in for questioning, alien policing procedures, measures taken in private dwellings, traffic law enforcement measures, etc.),

use and lawfulness of coercive devices (in particular: physical coercion, handcuffs, chemical agents, stun guns, batons, road blocks, use of firearms, use of group force, crowd dispersal, etc.)

#### **When is the Board not allowed to initiate a procedure or conduct an examination on the substance of a case?**

As it is not authorised to do so by law, the Board does not have the power and is therefore not entitled to:

assess general comments, comments suggesting improvements or critical comments, or public interest disclosures;

investigate minor offences, or reduce or cancel any administrative fines imposed;

assess the legality of acts carried out in the course of criminal proceedings;

award damages;

establish the criminal, administrative or disciplinary liability of police officers taking action;

review the legality of decisions taken in administrative or criminal proceedings.

Furthermore, if an objectionable act by the police occurred in the course of other ongoing proceedings, for instance criminal or administrative proceedings, the complainant must use the remedies available and assert their objections in those ongoing proceedings, unless the manner in which a procedural act was carried out (for example the tone of voice used when a witness was questioned, the manner in which a house was searched) was objected to by the complainant, in which case the Board is also entitled to carry out the examination.

#### **What you need to know about the procedure**

In order to have their case investigated, the complainant has the choice of applying to the head of the police agency which carried out the measure complained of or to the Board. Thus the complainant may choose whether an agency within the organisational structure of the Police (the head of the agency which carried out the measure) or an independent body outside the Police (the Board) will examine the complaint. At the same time this provision is intended to serve the separation of the two procedures from each other and allows only one of them to be conducted at any one time – namely the one chosen by the complainant.

Furthermore, the Board is entitled to make inquiries about any complaint filed with the Police and if it becomes aware of a case in which the conditions for it to intervene apply, it notifies the complainant and the police agency handling the case accordingly. Within eight days of receipt of the notification, the complainant may request the police agency to assess the complaint following an examination conducted by the Board. The police agency handling the case must suspend its procedure upon receipt of the Board's notification. This referral may be initiated by complainants themselves in the course of the police complaint procedure right up to when the final administrative decision is handed down and if the conditions for the referral are met, the complaint case will continue under the Board's procedure.

In an examination on the substance of a complaint, the Board aims to establish whether the police measures described in the complaint were conducted according to the rules, were necessary, justified and proportionate and whether they infringed any fundamental right of the complainant.

If an infringement of the complainant's fundamental rights is established in the course of the examination, the Board must also assess how serious this infringement is in view of all the circumstances of the case. If the Board concludes that:

no infringement took place (for example because the fundamental rights of the complainant were restricted lawfully), or

the infringement of a fundamental right cannot be established due to a contradiction between the submissions that cannot be resolved based on the documents available, or

an infringement of a fundamental right did occur, but it was of minor importance,

then the Board will forward its assessment to the head of the competent police agency, who will take the decision under the complaint procedure based on the official rules governing the Police and taking into account the legal position set out in the assessment by the Board. The complainant may appeal this decision, which includes the possibility of a judicial review of the decision, in accordance with the Act on the general rules of administrative procedures and services. Complainants may object in advance to the Board referring the complaint procedure to the competent police agency, if for example they believe that they would suffer bias there or are afraid of the possible consequences. However, in such a case the Board would be required to terminate the procedure since it could not be referred to anyone because of the complainant's objection.

If the Board finds a serious infringement of fundamental rights, it will – depending on the agency concerned – forward its assessment to the Chief Commissioner of the Hungarian National Police, the director-general of the body responsible for internal crime prevention and crime detection tasks or the director-general of the counter-terrorism body, who will then take a decision on the complaint based on the applicable rules and taking into account the legal position set out in the Board's assessment. If the decision of the body handling the case differs from the Board's assessment, the grounds on which it is based must be set out. Of course, it is also possible for a police decision handed down like this to be appealed before the courts. The Board's assessment may be used in those court proceedings.

Further detailed rules about the workings of the Board can be found in its Rules of Procedure on its website.

### **3. Contact details**

Postal address: H-1358 Budapest, Széchenyi rakpart 19.

Telephone: +36-1/441-6501

Fax: +36-1/441-6502

Email: [info@repate.hu](mailto:info@repate.hu)

Website: <https://www.repate.hu/index.php?lang=hu>

## **III. Other**

### **III.1. The Hungarian prosecution service**

#### **1. The organisation of the prosecution service**

The prosecution service of Hungary is an independent constitutional organisation subject only to the law.

The prosecution service is headed and managed by the Prosecutor General, who is selected by the National Assembly from among the public prosecutors for a term nine years and is thus accountable to Parliament under public law. The Prosecutor-General is required to report on the service's operations annually.

The bodies of the prosecution service in Hungary are:

the Office of the Prosecutor General

appellate chief prosecution offices

chief prosecution offices

district prosecution offices

An independent chief prosecution office or district-level prosecution office may be established for carrying out prosecution service investigations and other tasks of the prosecution service in justified cases.

There are five appellate chief prosecution offices and twenty-one (a metropolitan, nineteen county and a central investigative) chief prosecution offices under the direction of the Office of the Prosecutor General. The organisational structure of the chief prosecution offices – with the exception of the Central Investigative Chief Prosecution Office – is essentially divided between activities falling under criminal law and public law.

District and district-level prosecution offices under the direction of the metropolitan and county chief prosecution offices handle cases not assigned to another prosecution body by legislation or the Prosecutor General's instructions and carry out tasks related to prosecution service investigations.

The scientific and research institution of the prosecution service, the National Institute of Criminology (*Országos Kriminológiai Intézet*) forms part of the organisation of the prosecution service, but is not a prosecution body. It works on developing theories and practices in crime research, criminology and criminal law sciences.

## 2. The main tasks of the prosecution service

The Prosecutor General and the prosecution service are independent and as the public prosecutor intervening in the administration of justice, they are the sole enforcer of the State's right to punish. The prosecution service prosecutes criminal offences, takes action against other unlawful acts and omissions and promotes crime prevention.

The Prosecutor General and the prosecution service

exercise rights in connection with investigations, as defined by law;

represent public prosecution in court proceedings;

oversee the lawful operation of prison services;

exercise further powers and responsibilities defined by law as the protectors of the public interest.

The prosecution service

investigates cases specified in the Criminal Procedure Act (prosecution service investigations);

oversees that independent investigations conducted by an investigative authority are conducted in a lawful manner (oversight of investigations);

exercises other rights defined by law in connection with investigations;

exercises, as the public prosecutor, the power vested in public authorities to lay a charge; represents the prosecution in court proceedings and exercises the rights of appeal granted by the Criminal Procedure Act;

exercises legal supervision over compliance with punishments, secondary penalties, measures, coercive measures for the deprivation or restriction of liberty and follow-up measures, as well as compliance with the law on keeping databases of criminal, administrative and most wanted records and decisions

centrally rendering electronic data inaccessible; it also participates in procedures conducted by sentencing judges;

contributes to the proper application of the law in court proceedings (involvement of a public prosecutor in contentious and non-contentious court proceedings before civil, labour, administrative and economic courts);

promotes compliance with the law by bodies acting in the capacity of public authorities or managing out-of-court disputes;

pays special attention to prosecuting criminal offences committed by children or against children and to respecting the special rules concerning administrative and criminal procedures initiated against minors; collaborates in enforcing the rights of children in the cases defined by law and initiates procedures to take the necessary child protection measures;

carries out its tasks arising from international agreements and in particular in relation to the provision of and requests for legal assistance;

performs Hungary's tasks related to its participation in Eurojust;

provides representation in lawsuits filed for compensation of infringements and damage caused in the course of its activities.

For the protection of the public interest, the prosecution service works to ensure that the law is respected by all. When laws are infringed, the prosecution service takes action in the interest of legality, in the cases and manner defined in law. Unless otherwise provided by law, the prosecution service is obliged to take action if a body required to put an end to an infringement of the law fails to take the necessary action, despite being required to do so under the Fundamental Law, an act of law or other piece of legislation or legal instrument of state administration, or if immediate action by the prosecutor is needed to end the infringement of a right arising from an infringement of the law.

The non-criminal public interest powers and responsibilities to be exercised by the prosecution service as a contributor to the administration of justice are laid down in special legislation. A public prosecutor exercises these powers primarily by bringing contentious and non-contentious court proceedings, as well as by initiating procedures by administrative authorities and filing appeals.

## 3. Contact details

Prosecutor General: Dr. Péter Polt

Seat: 1055 Budapest, Markó u. 16.

Postal address: 1372 Budapest, Pf. 438.

Telephone number: +36-1354-5500

Email: [info@mku.hu](mailto:info@mku.hu)

Website: <http://mklu.hu/>

### III.2. Victim support

The Victim Support Service (*Áldozatsegítő Szolgálat*) provides assistance primarily to victims who have been harmed, in particular physically or mentally (psychological trauma, shock) or suffered losses as the direct consequence of a crime or an offence against property. The State assesses the needs of victims and provides them with services adapted accordingly.

#### 1. The procedure

Victim support services are provided by dedicated organisational units of metropolitan (county) government office. Victims may seek help from any victim support service in asserting their claims, and they may submit their application for immediate financial assistance, certification of status as a victim and compensation to any victim support service ([PDF](#)).

Applications for immediate financial assistance, certification of status as a victim or compensation must be submitted on the relevant forms ([Application form](#), [Application for certification of status as victim](#)). The victim support service provides assistance in filling in the forms.

Victim support procedures are free of charge.

Applications for immediate financial assistance may be submitted within five days of the crime or offence against property. Applications for compensation may be submitted within three months after the crime offence was committed – with the exceptions under the Act on crime victim support and State compensation.

Appeals against decisions by victim support services must be submitted within 15 days to the victim support service, but addressed to the Office of Justice.

## 2. Services

Under the Act, the services provided are:

help in making claims: the victim support service helps victims in a manner and to an extent appropriate to their needs in asserting their fundamental rights, which means advising them on their rights and obligations in criminal and administrative proceedings, the conditions for access to healthcare, health insurance, social benefits and other State support, and providing information, legal advice, emotional support and any other practical assistance in this context;

immediate financial assistance, which may be granted in the course of ongoing criminal proceedings for an amount laid down in the Act for housing, clothing, travel and food and for medical and funeral costs, if the victim is unable to meet these costs as a result of the crime or offence against property;

certification of status as victim: in the course of ongoing criminal proceedings, the victim support service certifies the client's status as a victim by means of an official certificate based on police documents; the victim may use the certificate for administrative and other procedures, such as being issued documents or granted access to legal aid, etc.;

witness assistance: witnesses summoned to a court hearing can consult the court's witness assistance official for appropriate advice; the court's witness assistance official is a clerk who provides witnesses with guidance, as laid down in the relevant legislation, on giving testimony in order to facilitate their appearance in court;

provision of safe houses: the State provides safe houses as needed to persons of Hungarian nationality or persons with the right to move freely and reside in Hungary, who have been identified as victims of human trafficking, regardless of whether criminal proceedings have begun;

State compensation: the relatives of a person killed in the course of a violent crime against a person or a person seriously injured in the course of such a crime may apply for State compensation in the form of a one-off payment or a monthly allowance if they are in need as defined in the Act.

## 3. Contact details

24/7 Victim Support Line accessible free of charge from networks in Hungary:

+36 (1) 80 225 225

### Victim Support Services

Further detailed information about [victim support](#).

## III.3. Legal aid

Under the Legal Aid Act, the principal objective of the Legal Aid Service (*Jogi Segítségnyújtó Szolgálat*) is to provide professional legal assistance to persons with social needs for the enforcement of their rights and the resolution of their legal disputes – within certain limits and in a specific form.

### 1. The procedure

An application for legal aid may be submitted in person or by post ([Legal Aid - contact details](#)) to the organisational unit ('regional office') responsible for legal aid at the competent county (metropolitan) government office of the applicant's domicile or habitual residence, or in the absence of such, their correspondence address or place of work by filling in and signing a form (<http://igazsagugyihivatal.gov.hu/dokumentumok-jogi-segitsegnyujtas>) and enclosing the necessary attachments. Submitting the application is free of charge.

With a (final) authorisation decision issued by the regional office, the person may then access the services of any duty lawyer (lawyers, law firms, civil society organisations) on the list of duty lawyers kept by the Office of Justice (<http://www.kimisz.gov.hu/alaptev/nepugyvedje/nevjegyzek>).

Appeals against decisions of the Legal Aid Service must be submitted within 15 days to the regional office, but addressed to the Office of Justice.

### 2. The basic forms of legal aid

#### A.) Support for out-of-court proceedings

if court proceedings have not yet been initiated to resolve a dispute,

advice and/or drafting of documents,

does not give entitlement to be represented; the duty lawyer may not act on behalf of or in place of the client.

#### B.) Support for court proceedings

if a court case is already ongoing,

provides representation,

cannot be granted to the person who committed the crime or offence,

the victim may be provided with legal representation right from the investigation and prosecution stages of criminal proceedings.

C.) In simple cases, the Service gives brief, [oral advice](#) without means-testing the client.

### 3. Conditions for entitlement

#### A.) In contentious and non-contentious proceedings in civil court:

the State covers the fees of the duty lawyer/legal representative or the State advances the fees for legal services for one year if the client's income and property situation meets the criteria defined by law,

the State advances the fees of legal services for any client established in an individual procedure by the Victim Support Service to have been the victim of a crime and who meets the conditions concerning income and property defined by law.

#### B.) In criminal proceedings:

the State advances the fees of the duty lawyer/ legal representative for one year if the client's income and property situation meets the criteria defined by law,

the State advances the fees of legal services for any client established in an individual procedure by the Victim Support Service to have been the victim of a crime and who meets the income and property criteria defined by law.

#### C.) Common rules:

Clients must provide proof of their income and the income of any persons living in a common household with them by means of the documents specified in the Legal Aid Act.



The Act specifies the cases in which support may not be granted, such as drawing up contracts, unless the parties concluding the contract jointly apply for support and the conditions for support are met in every respect, or for customs cases, etc.

#### **4. Contact details**

##### **Regional offices:**

Further detailed information about [legal aid](#).

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