

Parliamentary elections in April 2006 resulted in the continuation of the social-liberal governing coalition headed by Prime Minister Ferenc Gyurcsány.

On September 18-23 and on 23 October, violent riots took place alongside peaceful demonstrations in Budapest calling for the resignation of the prime minister. Police used force, in many cases excessively, to disperse violent crowds. The events stirred much public debate about fundamental rights and police accountability and also highlighted a number of long-standing human rights issues.

The UN Committee against Torture (CAT) reviewed Hungary's periodic report in November.¹ In its report the government confirmed that Hungary will accede to the Optional Protocol to the UN Convention against Torture. The CAT was "particularly concerned at reports emerging of alleged excessive use of force and ill-treatment by the police during the demonstrations in Budapest in September and October 2006."²

Freedom of assembly

On 18 September in Budapest, a group of demonstrators marched from a lawful demonstration held in front of the parliament to the nearby building of the public television in protest of a speech made by Prime Minister Ferenc Gyurcsány in May 2006. The TV building was protected by only a handful of police officers. There, the demonstration turned violent and in a battle that lasted for hours, about 300 violent demonstrators occupied and damaged the building. Over one hundred police officers were injured. During the following nights (19-21 September), there were further clashes between protesters and the police.

On another occasion, on the early morning on 23 October, before the celebration of the 50th anniversary of the 1956 Revolution the police forced the demon-

strators to leave the square in front of the parliament for safety reasons as high-level international representatives were expected to the same place for the official ceremonies. Later that day an unannounced demonstration started to approach the parliament building. The police tried to disperse the crowd that became violent. They moved (or were forced by the police to move) toward the rally of the opposition FIDESZ – Civic Party. Violent demonstrators threw stones, bottles and allegedly also Molotov cocktails toward the police, and set up barricades at several locations. The police used horse-mounted forces, water guns, tear-gas and rubber bullets against demonstrators.

While the police order to put an end to the riots was fundamentally lawful, police officers committed ill-treatment on a number of occasions as seen in several videos and photos (see Ill-treatment, below).³

Fair trial and effective remedies

September 2006 events

The incidents in September and October 2006 in Budapest directed public attention on concerns voiced for years by the Hungarian Helsinki Committee (HHC) relating to the ordering of pre-trial detention in Hungary.

Due to the September events criminal procedures against civilians were launched in 313 cases, short-term arrests of a maximum of 72 hours were ordered in 220 cases, and pre-trial detention was initiated in 172 cases.

Complaints received by the HHC showed that prosecutors initiated pre-trial detention as part of an automated routine with regard to the majority of the persons arrested in connection with the riots. Prosecutors' motions for pre-trial detention were not individualized, without consideration and thorough analysis of the relevant suspected actions and personal circumstances.

According to the information provided by the president of the Supreme Court, the first instance court ordered pre-trial detention in 145 cases out of a total of 172 motions for pre-trial detention, while house arrest was ordered in 12 cases. Hence the first instance court was widely criticized for merely rubberstamping the prosecutors' motions without examining them on their merits. The second instance court upheld the first instance decision in only a total of 31 cases while it terminated pre-trial detention in all the other cases.

Deliberations in camera

In its December 2006 judgment in the case of *Csikós v. Hungary*⁴, where the applicant was represented by a HHC lawyer, the European Court of Human Rights (ECtHR) held that the application of the provision of the Code of Criminal Procedure (CCP) that enabled the second instance court to deal with an appeal in sitting *in ca-*

mera method violated article 6(1) read in conjunction with article 6(3.c) of the European Convention on Human Rights (ECHR).

In May 2005 the Constitutional Court had found this provision to be unconstitutional and annulled it as of the date of delivery of its decision, however this decision could not be applied in the case of Mr. Csikós, who was convicted in 2004. After the annulment, the sitting *in camera* method was omitted entirely from the CCP for a period of nearly one year, after which it was reinstated in a manner that was in compliance with the constitutional and international standards; it cannot be used anymore to find a defendant guilty when reviewing the case on the merits.

Ill-treatment and police misconduct

In the course of September and October, a total of 171 reports were filed on account of police abuse (38 in relation to the



Police often used excessive force against demonstrators during anti-government protests in Budapest in September and October. 20 September 2006. © Index/Szémann

September incidents, 133 in relation to 23 October). However, it is likely that more than 171 persons were injured by the police but did not file reports.⁵

In addition, the HHC received information about abuse and ill-treatment of pre-trial detainees who had been taken to a penitentiary institution in Budapest following their arrest at the riots.

Reluctance to examine complaints

On 24 October, Budapest Police Chief Péter Gergényi held a press conference where he stated that all police actions in Budapest had been strict but lawful and also carried out in a professionally satisfactory manner. In reaction to concerns about obvious and recorded violations by the police the Budapest police chief said that anyone who has a complaint should file a report with the prosecutor's office because the police are not responsible for dealing with such complaints; no one was to hope for any compensation from the police for his/her injuries; and that he was not willing to launch any examination into alleged ill-treatment complaints.

While under Hungarian law it is indeed the task of the prosecutor's office to investigate crimes committed by police officers, under the Act XLIII of 1996 on the Status of Professional Members of Armed Law Enforcement Organizations, the superior officer is obliged to launch a disciplinary proceeding against any police officer who violates his or her obligations. The disciplinary proceeding can be suspended until the end of the criminal procedure; this however does not concern the superior officer's obligation to launch such a proceeding in every case when the suspicion of a violation occurs. Therefore, the police chief's position was clearly in contradiction with the law.

The HHC⁶ as well as the UN Committee against Torture⁷ called for ensuring prompt, impartial and effective investiga-

tions into all allegations of torture and ill-treatment committed by law enforcement officials. In particular, such investigations should not be undertaken by or under the authority of the police, but by an independent body.

Lack of accountability

Most police officers who had taken part in the September and October incidents wore "assault uniforms" with helmets, and some wore masks. These police officers did not wear any identification badges, making any identification for accountability purposes nearly impossible.

The Police Act requires wearing identification signs for police officers, however, during the September events, the national police chief issued an order⁸ to enable police force unit commanders to order the personnel dispatched not to use any identification during an action. As a result, about 60% of acting police officers wore no identification badges on 23 October – which was clearly in breach of the law. Moreover, in November CAT called on Hungary to "ensure that all law enforcement officials be equipped with visible identification badges to ensure the protection against torture, inhuman or degrading treatment or punishment."⁹

Asylum seekers

There was no significant change in overall asylum trends. The number of persons seeking asylum in Hungary remained low with a slight increase from 2005 (2,117 asylum seekers in 2006, compared to 1,609 in 2005). Vietnam, Serbia, China, Georgia and Nigeria remained the main countries of origin. The quality of refugee status determination improved significantly in recent years, particularly with regard to country of origin information.

Hungary failed to transpose the EU Qualification Directive¹⁰ by its deadline (10 October 2006), as a result of which the

current asylum and alien policing legislation does not comply with several provisions of the directive. A comprehensive amendment to the Asylum Act in order to comply with the directive is foreseen for 2007.

The detention of asylum seekers continued to be an area of concern. Although in 2006 fewer persons were detained than in previous years, this was largely due to the relatively low number of asylum seekers. The main problems concerning detention included the lengthy maximum detention period (12 months in 2006), the lack of information provided to detainees, as well as the ineffective judicial review, which in practice resulted in the automatic prolongation of detention to the maximum allowed period without the asylum seekers understanding why they were detained.¹¹

In December, parliament passed the new Aliens Act¹² (entry into force: July

2007), which contains several improvements. It reduces the maximum duration of alien policing detention from twelve to six months and simplifies the highly complex system of the different types of alien policing detention. Nevertheless, provisions on detention will remain largely insensitive to the specific cases of persons seeking international protection. This might be compensated in 2007 by the prospective amendments of the Asylum Act or of the implementing government decrees. Other important positive steps include extending the group of family members entitled to family reunification to parents and other direct-line family members, if they are unable to take care of themselves in the country of origin, and introducing a formal statelessness determination procedure, as well as a separate legal status for stateless persons.

SOURCES FOR FURTHER INFORMATION:

♦ Hungarian Helsinki Committee, at www.helsinki.hu

Other organizations:

♦ Hungarian Civil Liberties Union, at www.tasz.hu

♦ European Roma Rights Center, at www.errc.org

♦ Mental Disability Advocacy Center, at www.mdac.info

♦ Legal Defense Bureau for National and Ethnic Minorities (NEKI), at www.neki.hu

♦ Menedék – Hungarian Association for Migrants, at www.menedek.hu

♦ Amnesty International Hungary, at www.amnesty.hu

Endnotes

¹ Conclusions and recommendations of the Committee against Torture, 37th session, CAT/C/HUN/CO/4 www.ohchr.org/english/bodies/cat/docs/37/cat_c_hun_co_4.pdf.

² Ibid, para 14.

³ Video footage by HirTV at www.hirtv.hu/?tPath=/view/videoview&videoview_id=3775. *Két rendőri túlkapást vizsgálunk; Index, 2006*, 24 October 2006, at <http://index.hu/politika/belfold/1024rndrtlkp/> (in Hungarian).

⁴ *Csikós v. Hungary*, application no. 37251/04.

- ⁵ *Index*, 19 January 2007, at <http://index.hu/politika/belfold/rndr4031/>
- ⁶ Interview with HHC president Ferenc Kószeg about HHC's position, at http://hvg.hu/english/20061109_koszeg_ferenc_helsinki_committee.aspx (in English).
- ⁷ Para 16 of the *Conclusions and Recommendations of the Committee against Torture*.
- ⁸ Order no. 16/2006 of the National Chief of Police, which came into force on 1 October 2006. It was first denied that the order existed, then the national police chief described it as completely legal, but otherwise provided no exact explanation for its rationale, even when asked by MP's at a special parliamentary committee session.
- ⁹ Para 15 of the *Conclusions and Recommendations of the Committee against Torture*.
- ¹⁰ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.
- ¹¹ A detailed report on the problems concerning the detention of asylum seekers in Hungary will be posted on the HHC website at www.helsinki.hu in January 2007.
- ¹² Act II of 2007