

**AMNESTY INTERNATIONAL HUNGARY
HUNGARIAN HELSINKI COMMITTEE**

PRESS RELEASE

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The looming shadow of the *Baka v. Hungary* case – the Government is still failing to guarantee the freedom of expression of judges

The Hungarian Government has failed to address in a satisfactory manner the concerns around the right to freedom of expression of Hungarian judges. Therefore, in its decision published today, the Committee of Ministers of the Council of Europe has not closed the supervision of the judgment delivered by the European Court of Human Rights in the *Baka v. Hungary* case, and requested the Hungarian authorities to submit an updated action plan.

The [Baka v. Hungary case](#) was this week again on the agenda of the Committee of Ministers of the Council of Europe, in its capacity of monitoring the execution of European Court of Human Rights judgments. In the judgment issued in the *Baka v. Hungary* case in 2016, the Court found that the right to freedom of expression of the former President of Hungary's Supreme Court had been violated, because the premature termination of his mandate was "prompted by the views and criticisms that he had publicly expressed in his professional capacity". This week, the Committee of Ministers decided that it considers the judgment not executed, and requested further information from the Hungarian Government.

In their joint [communication](#) submitted to the Committee of Ministers this July, Amnesty International Hungary and the Hungarian Helsinki Committee warned that the Hungarian Government had failed to ensure that judges can freely express their professional opinion on the independence of the judiciary, without having to fear detrimental consequences. This "chilling effect" on the freedom of expression of judges is encoded in the Hungarian court system, most judges are afraid to express their opinion even in relation to professional matters, and the Government has done nothing to counter this.

This week, the Committee of Ministers [decided](#) not to close the supervision of the *Baka v. Hungary* case, meaning that it does not deem the judgment adequately executed. The decision shows that the Hungarian Government has not been able to dispel the concerns in relation to the freedom of expression of Hungarian judges. In addition, the Committee of Ministers noted with concern the continuing absence of safeguards in connection with constitutional-level measures terminating a judicial mandate, as happened in the case of András Baka.

The Committee of Ministers will resume consideration of the case in 2021, and invited the Hungarian authorities to submit further information in the case by the end of March 2021, including of the guarantees and safeguards protecting judges who publicly express their opinion about issues concerning the courts from undue interferences.

This is already the second time only this week that the Hungarian Government is severely criticized in relation to the independence of the judiciary in the country. The European Commission's [Rule of Law Report](#), published this Wednesday, raised for example as a problem that the judiciary's most important self-administration body, the National Judicial Council, faces challenges in counterbalancing the powers of the President of the National Office for the Judiciary in charge of the management of the courts. It also expressed concerns over the attacks by the Government and by the media against individual judges and certain judicial decisions. According to the report, the Commission finds it problematic that former Constitutional Court justices may be appointed as judges to the Kúria (the Supreme Court) without a call for application and the involvement of the judiciary. The Commission's report was [assessed](#) by eight Hungarian civil society organisations jointly earlier this week.

Background information:

András Baka, the former President of the Hungarian Supreme Court turned to the European Court of Human Rights in 2012 after his mandate had been terminated three and a half years before the end of his regular six-year term, allegedly because of the "reform" of the court system. The European Court of Human Rights [found](#) in the case in 2016 that Hungary had violated the right of access to a court of András Baka, because the premature termination of his presidential mandate was set out by a legislative measure of constitutional rank, not subject to any kind of judicial review. Furthermore, the Court found that the former President's right to freedom of expression had also been violated, because his early dismissal was in fact "prompted by the views and criticisms that he had publicly expressed in his professional capacity" about legislative steps.

According to the judgment, Mr Baka's early removal was not only detrimental to him personally, but also affected the freedom of expression of judges in general: it undoubtedly had a "chilling effect" in that it must have discouraged also other judges in future from participating in public debate on issues concerning the independence of the judiciary.

The Committee of Ministers examined the execution of the judgment in the *Baka v. Hungary* case the last time in September 2019. In its [decision](#) issued at that time, the Committee of Ministers noted "with grave concern" the reports suggesting that the "chilling effect" on the freedom of expression of judges and court presidents in general "has not only not been addressed but rather aggravated". Therefore, the Committee of Ministers "urged the authorities to provide information on the measures envisaged to counter this 'chilling effect' in order to fully guarantee and safeguard judges' independence and freedom of expression". Thus, according to the decision, the Hungarian Government should have ensured that Hungarian judges can express their professional opinion on issues related to the independence of the judiciary without having to fear detrimental consequences.