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## Serbian Supreme Court Extends Unlawful Detention of Ethnic Hungarian Lawyer Gabriella Ágoston and Denies Vital Medical Attention

European Court of Human Rights Requests Further Documentation

On July 26, the Serbian Supreme Court extended the unlawful detention of ethnic Hungarian lawyer **Gabriella Ágoston** by an additional 60 days. Her incarceration is part of a seemingly coordinated series of “legal” measures to incapacitate key leaders of the country’s 300,000-strong Hungarian community, the largest national minority in Vojvodina province. At the request of the Alliance of Hungarians in Vojvodina (VMSz), the community’s strongest representative body, Ágoston has defended several local victims of the anti-minority violence that has been on the rise since Fall of 2003. [For the latest details on the number and nature of these anti-minority incidents see HHRF’s July 2005 Report “Anti-Minority Aggression Intensifies in Vojvodina, Serbia, During 2005” <http://www.hhrf.org/hhrf/en/vojvodinareport-mar-2005.htm>] Furthermore, throughout this illegal incarceration Ágoston has been seriously ill and has been denied necessary medical attention by the Serbian authorities.

### Background

Gabriella Ágoston, aged 44, has been held in custody in the Vojvodina town of Szabadka/Subotica, since April 26, 2005. She has not been officially charged with a crime, yet her detention has been extended three times for a total of 150 days, of which she has already spent 120 in prison.

The detention of Ágoston, and the subsequent June 2 announcement in the media by Szabadka District Chief Prosecutor **Jovica Maksimovic** to investigate several ethnic Hungarian political leaders for alleged abuse of official power a decade ago, introduced a new component on the part of Serbian officialdom in nearly two years of anti-minority hostilities. Maksimovic and his colleagues from the Újvidék/Novi Sad district have threatened to incarcerate President **József Kasza**, Vice President **Zoltán Bunyik** and other leaders of the Alliance of Hungarians in Vojvodina. The pretext for Ágoston’s detention—former Szabadka town clerk between 1993 and 2001—is that in 1997, while VMSz President Kasza was mayor, she contracted with the Subiro Company to build an underground municipal parking garage that was never completed despite payment. Although in 2004, current mayor **Géza Kucsera** began negotiating with the company and reached a settlement on May 12, 2005 for full repayment; chief prosecutor Maksimovic had Subiro Directors **Franka Nemes** and **Gábor Nemes**, along with Ágoston, taken into custody, where the latter two remain.

Subsequent information learned by HHRF strongly supports VMSz President József Kasza’s explanation that a *deliberate, carefully prepared and coordinated campaign of political discreditation*

is underway to incapacitate the Hungarian minority's leadership and intimidate the community [Interview, *Magyar Szó*, June 18-19, 2005]. Specifically in the case of Ágoston, her husband **Antal Kujundzsics** has relayed that she received numerous threatening telephone calls while representing victims of anti-Hungarian violence. Moreover, Ágoston's lawyer, **Borislav Danic** witnessed, along with staff at the Szabadka Court who are afraid to testify, Maksimovic threaten to keep Ágoston in custody until she "incriminates" former Szabadka mayor Kasza for wrongdoing.

### **Due Process Violations Mar Ágoston's Incarceration**

Since her "preliminary" detention, Gabriella Ágoston's incarceration has been extended in 30 day increments on May 26, June 26 and, most recently, on July 26 for an additional 60 days. According to her husband, this last extension was on account of the court's summer holiday, since it's session only resumes in mid-September. Ignoring Serbian law regarding legitimate grounds for detention, the Supreme Court upheld the legality of each extension upon appeal by Ágoston's counsel. Ultimately, Ágoston's detention can be extended for up to a total of six months under Serbian law.

Both the prosecution and court have committed due process violations. Ágoston's defense has shown that:

- *There are no grounds for the detention* which, in violation of Serbian law, has occurred without due justification.
- *Ágoston's detention is unnecessary.* The prosecutor alleges that were Ágoston at large, she would "destroy evidence and influence potential witnesses." However, the prosecution never provided evidence to justify these claims. In fact, Ágoston voluntarily went in for questioning with police when they showed up at her door without a summons (from which point forwards she was held in custody) as she had nothing to hide and thus had no cause for "flight." She has no access to "evidence" to potentially "destroy" as she has not worked at the municipality for four years now. Moreover, she has no motive to "influence any potential witnesses" because the transaction in question happened seven years ago and has been settled.
- *The examining judge has failed to satisfy the legal requirements to perform summary proceedings prescribed in the case of detention.* According to Serbian law, grounds for detention must either be eliminated in summary proceedings as soon as possible or charges filed and criminal proceedings begun. However, during the first 50 days of Ágoston's incarceration, the examining judge interrogated only four witnesses, all on May 17. On June 16 and 17, they heard an additional eight witnesses. Since then the prosecution has not heard any more witnesses. It justified the third extension on the grounds that it has to procure two additional documents from the local archives, located nearby, which it had failed to do during the previous 90 days. This pace and methodology does not meet the definition of an expeditious investigation, however, the court has chosen to ignore this fact by approving the extensions.
- Both the district prosecutor and the district judge have denied Ágoston's lawyer access to the case's legal documents.

## Targeting Ethnic Hungarian Leaders

Ágoston's unfounded incarceration, without due process, is apparently part of larger official campaign to intimidate the Hungarian community in general and, discredit the Alliance of Hungarians in Vojvodina's President, József Kasza, in particular. As Kasza has stated, Hungarian leaders are being assailed for vigorously protesting, at the international level, ethnically-based incidents, as well as the ineffectiveness of the police force and judicial system. This has incurred the ire of the Serbian Socialist Party and the radicals, who are still part of the country's leadership, both at the state and local levels, affirms Kasza.

Szabadka District Chief Prosecutor, **Jovic Maksimovic**, an ethnic Serb from Kosovo, held a similar position under Milosevic and, at the time of his appointment earlier this year to the current post, was a member of the Serbian Radical Party (SRP). Ignoring legal protocol, only after disclosing his investigation in the tabloid *Kurir*, did Maksimovic send an official letter to the Szabadka local council on June 3. However, to date, none of the individuals he has named, nor who are currently incarcerated, have received any official notification.

## Ágoston Denied Medical Care and Necessary Hospitalization

For the past year-and-a-half, Gabriella Ágoston suffers from essential thrombocythaemia, one of the most serious forms of the myeloproliferative disorders. Her medical condition is chronic and acute. According to a medical expert's opinion issued by the Belgrade Military Medical Academy's Hematology Clinic (KOAHK)—where Ágoston has been a patient since the early stages of her illness—“... *it is necessary that the patient receive proper, supervised medical attention provided under the necessary conditions available in a hospital.*” However, the Serbian court has chosen to ignore this fact, and approve the prosecution's request for her incarceration. On May 10, 2005, Ágoston became ill and the District Prison Directorate transferred her to the Belgrade Prison Hospital (BBK.) While there, Ágoston did not receive any medication. Moreover, on some occasions, guards at the prison hospital refused to take medication Ágoston's husband had purchased because he did “*not deliver them during visiting hours,*” which, incidentally, are held one day per week. On July 21, Ágoston was transferred back to the Szabadka prison because the Belgrade Prison Hospital had reached full capacity.

## Appeal for International Protection

Confronted with an unfair judicial system and having exhausted domestic legal recourse, Ágoston's lawyer Borislav Danic turned to the European Court of Human Rights (ECHR) for a review of the case following the first extension of her detention. On June 7, the ECHR requested additional documentation. Danic has also requested assistance from human rights organizations, including the Helsinki Committee for Human Rights in Serbia, the Belgrade-based Freedom House, and the International Helsinki Federation for Human Rights in Brussels. His latest appeal has been a July 11 letter to Serbian President **Boris Tadic** asking for his intervention in insuring that justice is served.

## Recommended Action

HHRF finds that Gabriella Ágoston is being held without cause, her detention has occurred without due process, and her fundamental human right to vital medical treatment has been denied. HHRF urges the immediate and unqualified release of Ágoston as well as an investigation of the Subotica and Novi Sad District Prosecutors.