



Budapest, 14 April 2022

**Secretariat of the European Committee for the Prevention of
Torture and Inhumane or Degrading Treatment or
Punishment (CPT)**

Council of Europe
F-67075 Strasbourg Cedex
France

Subject: Requesting an ad hoc visit to Hungarian penitentiaries regarding the structural violation of the right to respect for detainees' and their family members' private and family life

Dear Madams and Sirs,

The **Hungarian Helsinki Committee (HHC)** is a leading human rights organisation in Hungary and in Central Europe. The HHC monitors the enforcement of human rights enshrined in international human rights instruments, provides legal defence to victims of human rights abuses by state authorities and informs the public about rights violations. The HHC's main areas of activities are centred on protecting the rights of asylum seekers and foreigners in need of international protection, as well as monitoring the human rights performance of law enforcement agencies and the judicial system. It particularly focuses on the conditions of detention and the effective enforcement of the right to defence and equality before the law.

The HHC ran a detention-monitoring programme for over two decades between 1995 and 2017. In this period, the organization carried out 1237 monitoring visits at police jails, 48 visits at penitentiary institutions and made 51 inspections at places of immigration detention. The HHC submitted numerous communications to various international forums (CPT, UNWGAD, CPT, SPT, UPR, etc.) in related subject matters. The HHC lawyers have litigated cases related to the conditions of and treatment in detention in Hungarian prisons before domestic forums and the European Court of Human Rights (see e.g. the cases *Engel v. Hungary*, Application no. 46857/06, *Csüllög v. Hungary*, Application no. 30042/08, three out of six applicants were represented by HHC lawyers in cases of *Istvan Gabor Kovacs and Varga and others v. Hungary*, Application nos. 15707/10, 14097/12, 45135/12, 73712/12, 34001/13, 44055/13, and 64586/13). Moreover, the HHC lawyers have litigated cases related to the right to respect for detainees' private and family life before the European Court of Human Rights (see *Császty v. Hungary*, Application no. 14447/11 and *Pintér v. Hungary*, Application no. 39638/15).

The Hungarian Helsinki Committee (HHC) wishes to respectfully call the attention of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to the following problems related to the structural violation of the right to respect for detainees' and their family members' private and family life in Hungary, which the HHC identified in the course of its activities regarding the respect of detainees' fundamental rights in Hungarian penitentiary institutions.

Severe and unjustified restrictions on personal contacts in penitentiaries

The HHC has long been reporting on issues related to unnecessary restrictions of detainees' contact with the outside world to the CPT.¹ Furthermore, the HHC has recently compiled a factsheet² on the

¹ For example: Hungarian Helsinki Committee: *Briefing paper for the CPT on the occasion of the CPT's periodic visit to Hungary*, 28/03/2013, https://helsinki.hu/wp-content/uploads/HHC_briefing-paper_CPT_periodic_visit_28March2013_FINAL.pdf; and Hungarian Helsinki Committee: *Briefing paper of the Justice and Rule of Law Programme of the Hungarian Helsinki Committee for the periodic visit to Hungary by the CPT in 2018*, 24/10/2018, https://helsinki.hu/wp-content/uploads/2021/04/HHC_criminal_justice_briefing_paper_CPT_Oct2018.pdf

² Hungarian Helsinki Committee, *Contacts with the outside world*, 30/03/2022, https://helsinki.hu/en/wp-content/uploads/sites/2/2022/03/HHC_factsheet_detainees_contact_Hungary_fin_EN.pdf

most pressing issues related to contact with the outside world for detainees in Hungary. This factsheet³ contains HHC's recommendations regarding contact with the outside world. Additionally, the 2020-2021 research⁴ of the Support Network for Detainees and their Families on detainees' contacts with the outside world corroborate that opportunities for having family contact inside penitentiaries have been subjected to an increasingly restrictive policy for years even before the pandemic. For example, since 2017 physical contact between detainees and their visitors have been completely prohibited, except for a rarely available type of visit (family visit), which is only available upon request and its granting criteria is non-transparent. In HHC's experience, the pandemic has further intensified these concerning trends.

As a health security measure to protect detainees and staff from COVID-19, the Director General of the National Prison Administration (NPA) imposed a total ban on visiting prisons from March 2020. From 18 June 2020, Act LVIII of 2020 (hereinafter: Transitional Act) has regulated pandemic-related restrictions on the execution of prison sentences.⁵ According to this, the Director General of the National Penitentiary Administration (hereinafter: NPA) may restrict⁶ all forms of personal contacts including visits and extraordinary temporary release. This means in practice that by the sole discretion of the NPA's Director General, visits and temporary release have been upheld during the vast majority of the past two years without any limits as the conditions of lifting the ban (such as the rate of infected population, or the rate of vaccination) were never communicated. HHC has requested information from the NPA on the conditions of a possible lift to the total ban; data regarding this policy was not disclosed.

The ban first lasted for a consecutive 16 months, after which restrictions were eased for four months on 1 July 2021 that made visits possible again, but under significantly stricter conditions than before the ban,⁷ such as

- children were not allowed to visit,
- a one-hour visit of at least once a month has been reduced to a half-hour visit no more than once a month, and
- adults were only allowed to visit if they had a vaccination card.

The severity of these strict conditions was not justified by the pandemic situation, nor have the limitations been explained by the NPA. Restricted visitation was possible for four months in total, but on 8 November 2021, the prison visitation ban was reintroduced.⁸ As of 14 April 2022 all penitentiary institutions remain under total lockdown to "reduce health risks related to the pandemic" despite the fact that the Government lifted the last COVID-restrictions outside penitentiary walls more than a month ago, on 7 March 2022. This long-standing total lockdown has put a severe burden on detainees'

³ Hungarian Helsinki Committee, *Contacts with the outside world*, 30/03/2022, https://helsinki.hu/en/wp-content/uploads/sites/2/2022/03/HHC_factsheet_detainees_contact_Hungary_fin_EN.pdf

⁴ Kovács-Krámer-Szegő: *Keeping in Contact with Detainees in Hungarian Penitentiary Institutions*. FECSKE, 2020-2021, https://www.fogvatartas.hu/wp-content/uploads/2022/03/fecske_keeping_in_contact_EN_final.pdf

⁵ Article 237(4-8) of the Act LVIII of 2020 on the Transitional Provisions related to the Termination of the State of Danger and on Epidemiological Preparedness (hereinafter: Transitional Act).

⁶ Article 237(4) of the Transitional Act allows for the Director General of the National Prison Administration (NPA) to put restrictions on visitation for detainees. The law allows for the restrictions "in one or more penitentiary institutions", if necessary for the "introduction of an epidemiological protection measure, or another reason connected to the public health crisis". Since the entry into force of the Transitional Act, Article 237(4) has been applied mostly as a permanent ban – with the exception of four months in two years – without any individual assessment. According to the data provided by the NPA, this also included the low-infection period during summer 2020. Nevertheless, according to the law's text the purpose of the legislation would not be a total ban, but to allow a restriction if necessary.

⁷ See for example HHC, *Unnecessary restrictions have been imposed as prisoners are allowed visitors again*, <https://helsinki.hu/en/unnecessary-restrictions-have-been-imposed-as-prisoners-are-allowed-visitors-again/>

⁸ See NPA, *Visitations are on hold again*, <https://bv.gov.hu/hu/intezetek/bvszervezet/hirek/4564>

family ties. For example, a mother told HHC that it has been 20 months since her detained husband had seen their now 32 month-old child, which in HHC's view is a severe violation of the child's right to have a meaningful relationship with his father.

Moreover, the total lockdown of penitentiary institutions were applied to receiving visitors outside the prison and to temporary release (including extraordinary temporary release) as well from March 2020. According to HHC's information, the ban on receiving visitors outside the penitentiary institutions and all forms of temporary release were not even lifted for the short 4-month-period when visits were continued. No meaningful justification was provided by the NPA on this severe restriction amounting to a serious violation of thousands of detainees' rights. Out of which the most severe violation is the ban on extraordinary temporary release. According to the Act CCXL of 2013 on the Execution of Punishments, Measures, Certain Coercive Measures and Petty Offence Confinement (hereinafter: Penitentiary Code), convicted prisoners can apply for extraordinary temporary release⁹ to visit a seriously ill close relative or attend a close relative's funeral. Before and during the pandemic, HHC has been receiving complaints from detainees that their request for an extraordinary temporary release to pay a last visit to a terminally ill family member, or to attend a family members' funeral were rejected on grounds of the health security risk granting the extraordinary release would have posed. In the case of such detainees, the penitentiary authority often does not provide its decision on due time and fail to inform detainees of legal remedies against this decision. HHC lawyers successfully litigated cases in front of the European Court of Human Rights in relation to prison authorities violating detainees' right to respect for his private and family life when denying the permission to visit terminally ill close relatives.¹⁰ Additionally, HHC has a similar ongoing case in front of the ECtHR (Application no. 54953/21).

Overall, it seems clear to HHC that there has been a systemic overuse of COVID-lockdown measures all over the Hungarian penitentiary system constituting a structural violation of the right to respect for detainees' and their family members' private and family life. In HHC's view, an assessment of the current situation by an international monitoring body is necessary to ensure the respect of human rights in the Hungarian prison system. Therefore, we are respectfully calling on the CPT to use its mandate and pay an ad hoc visit to Hungarian penitentiaries.

Respectfully,



Director of Justice and rule of law programme
Hungarian Helsinki Committee

⁹ According to Article 123(1) of the Penitentiary Code "On the basis of permission issued by the governor of the penitentiary institution, convicted prisoners may – with or without an escort – visit a seriously ill close relative or attend the funeral of a close relative."

¹⁰ See Császay v. Hungary, Application no. 14447/11 and Pintér v. Hungary, Application no. 39638/15.