

31 July 2023, Budapest

Council of Europe
DGI – Directorate General of Human Rights and Rule of Law
Department for the Execution of Judgments of the ECHR

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Subject: NGO communication with regard to the execution of the judgments of the European Court of Human Rights in the *László Magyar v. Hungary* group of cases

Dear Madams and Sirs,

The Hungarian Helsinki Committee (HHC) hereby respectfully submits its observations under Rule 9(2) of the “Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements” regarding the execution of the judgments of the European Court of Human Rights in the *László Magyar v. Hungary* group of cases.

The HHC is an independent human rights watchdog organisation founded in 1989. The HHC focuses on defending the rule of law and a strong civil society in a shrinking democratic space; the right to seek asylum and access protection; the rights to be free from torture and inhuman treatment and the right to fairness in the criminal justice system. The HHC carries out monitoring, research, advocacy and litigation in its fields of expertise, contributes to monitoring Hungary’s compliance with relevant UN, EU, Council of Europe, and OSCE human rights standards and cooperates with international human rights mechanisms. The HHC has been advocating for the abolishment of life imprisonment without the possibility of parole in Hungary for over a decade, and as part of these efforts, it submitted third-party interventions to the European Court of Human Rights (hereinafter: Court) in both the *László Magyar* and the *T.P. and A.T. v. Hungary* cases, along with Rule 9(2) communications in the *László Magyar v. Hungary* group of cases.¹

EXECUTIVE SUMMARY

The Hungarian law allows for imposing **life imprisonment without the possibility of parole (whole life sentence/imprisonment)**. In 2014, the Court ruled in the *László Magyar v. Hungary* case² that by sentencing an applicant to whole life imprisonment, Hungary **violated the prohibition of torture and inhuman or degrading treatment or punishment under Article 3** of the European Convention on Human Rights. After the judgment, a “mandatory pardon [clemency] procedure” was introduced for

¹ In May 2016 [DH-DD(2016)646, [https://hudoc.exec.coe.int/eng?i=DH-DD\(2016\)646E](https://hudoc.exec.coe.int/eng?i=DH-DD(2016)646E)] and in July 2022 [DH-DD(2022)833, [https://hudoc.exec.coe.int/eng?i=DH-DD\(2022\)833E](https://hudoc.exec.coe.int/eng?i=DH-DD(2022)833E)].

² Application no. 73593/10, Judgment of 20 May 2014

whole lifers. The Court examined the conformity of the new procedure with the Convention in the *T.P. and A.T. v. Hungary* case, concluding that it was not persuaded that “the applicants’ life sentences can be regarded as reducible for the purposes of Article 3 of the Convention”, and established the violation of the Convention once again. This assessment was confirmed by further decisions of the Court in Hungarian cases. However, **the Hungarian Government has not taken any general measures** to date to address the rights violations as pointed out by the judgment handed down in the *T.P. and A.T. v. Hungary* case and subsequent judgments in this group of cases, and has not amended the respective legal provisions in a way that would prevent similar rights violations. Thus, **none of the legal shortcomings** identified by the *T.P. and A.T.* judgment **have been addressed**, and the decisions of the Committee of Ministers issued regarding the group of cases have not been complied with in terms of the general measures required. The mandatory pardon procedure for whole lifers after serving 40 years continues to violate the Convention. Furthermore, **a uniformity decision by Hungary’s apex court also prevents individual measures that would be required to bring the violations to an end with regard to the applicants in the group of cases** sentenced to whole life imprisonment, in clear violation of the Court’s judgments.

In the *Bancsók and László Magyar (no. 2) v. Hungary* case,³ the Court concluded for the first time in relation to the “**simple**” life sentence (i.e. **life imprisonment with a possibility of parole**) that **the fact that the minimum term to be served was set for 40 years for both applicants in the case amounted to the violation of their rights under Article 3** of the Convention. This was reiterated in further judgments with respect to applicants in the case of whom the minimum term to be served was set between 30 and 40 years. This shows that the Hungarian rules that allow the minimum term to be served before a detainee can be released on parole to be set for 40 years are incompatible with the Convention. However, the respective **legal shortcomings have not been addressed**, and **the decisions of the Committee of Ministers have not been complied with** in any way in this regard either.

1. LACK OF REQUIRED LEGAL CHANGES

In its decision issued in September 2022, the Committee of Ministers “urged the [Hungarian] authorities, without further delay, to align their legislation with the Court’s case-law in respect of both types of life sentences, to set up a timeline for the legislative process and to present to the Committee a draft legislative proposal reducing the waiting period for prisoners before they are eligible for release on parole or clemency addressing the concerns raised by the Court regarding the lack of sufficient procedural safeguards in the mandatory clemency procedure before the President of the Republic”.⁴ However, to date, the Hungarian authorities have failed to comply with this decision, as evidenced also by the Government’s Group Action Plan of 7 July 2023.⁵

1.1. Mandatory pardon procedure for whole lifers continues to violate the Convention

As far as life imprisonment without the possibility of parole (whole life sentence) is concerned, the Hungarian Government has not taken any general measures to date to address the rights violations as pointed out by the judgment handed down in the *T.P. and A.T. v. Hungary*⁶ case (and subsequently in

³ Applications nos. 52374/15 and 53364/15, 28 October 2021

⁴ CM/Del/Dec(2022)1443/H46-12, [https://hudoc.exec.coe.int/eng?i=CM/Del/Dec\(2022\)1443/H46-12E](https://hudoc.exec.coe.int/eng?i=CM/Del/Dec(2022)1443/H46-12E)

⁵ DH-DD(2023)828, [https://hudoc.exec.coe.int/eng?i=DH-DD\(2023\)828E](https://hudoc.exec.coe.int/eng?i=DH-DD(2023)828E)

⁶ Application nos. 37871/14 and 73986/14, Judgment of 4 October 2016

the *Kruchió and Lehóczki v. Hungary*,⁷ the *Sándor Varga and Others v. Hungary*⁸ and the *Coman and Others v. Hungary* cases⁹), and **has not amended the respective legal provisions in a way that would prevent similar rights violations**. Furthermore (apart from the reference in the Group Action Plan to an ongoing comparative analysis), there is no publicly available information which would indicate that any concrete legal amendment that would ensure compatibility with the Convention in this regard is envisaged by the Government.

Accordingly, all of the concerns due to which the Court ruled in the *T.P. and A.T.* case for the first time that the mandatory pardon/clemency procedure¹⁰ introduced for whole lifers is not compatible with the Convention remain valid. These include the following:

- The mandatory pardon procedure shall be conducted ex officio after 40 years of detention. According to the Court, “[s]uch a long waiting period unduly delays the domestic authorities’ review” and means that the Hungarian law “does not offer *de facto* reducibility of the applicants’ whole life sentences”.¹¹
- In the course of the mandatory pardon procedure, a judicial clemency board adopts a recommendation on the granting of clemency, but the procedure concludes with the fully discretionary clemency decision of the President of the Republic. The Court expressed reservations over the fact that the law “does not oblige the President of the Republic to assess whether continued imprisonment is justified on legitimate penological grounds” and that it “failed to set a time-frame in which the President must decide on the clemency application or to oblige him or the Minister of Justice – who needs to countersign any clemency decision – to give reasons for the decision, even if it deviates from the recommendation of the [judicial] Clemency Board”.¹²

Despite the decisions of the Committee of Ministers issued regarding the group of cases in June 2018¹³ and in September 2022,¹⁴ none of the shortcomings identified by the Court in the *T.P. and A.T.* case as presented above have been addressed. Thus, **the Hungarian authorities have not complied with the Committee of Ministers’ decisions with respect to the general measures**, and, in particular,

- have not “align[ed] their legislation with the Court’s case-law as regards the time period life prisoners have to wait before they are considered for clemency”;
- have not “address[ed] the concerns raised by the Court regarding the lack of sufficient procedural safeguards in the second part of the review procedure before the President of the Republic”; and
- have not “take[n] the necessary legislative measures to ensure that this [second] part of the [...] mandatory clemency procedure is likewise carried out in line with the requirements of the Convention as set out in the Court’s case-law”.¹⁵

⁷ Applications nos. 43444/15 and 53441/15, Judgment of 14 January 2020, § 27

⁸ Applications nos. 39734/15 and 2 others, Judgment of 17 June 2021, § 49

⁹ Applications nos. 49006/18 and 8 others, Judgment of 12 January 2023

¹⁰ The procedure is presented in detail by the judgment reached in the *T.P. and A.T. v. Hungary* case under § 17, and in the HHC’s Rule 9(2) communication submitted with regard to the *László Magyar v. Hungary* case in May 2016, available here: [http://hudoc.exec.coe.int/eng?i=DH-DD\(2016\)646E](http://hudoc.exec.coe.int/eng?i=DH-DD(2016)646E), pp. 3-4.

¹¹ *T.P. and A.T. v. Hungary*, § 48

¹² *T.P. and A.T. v. Hungary*, § 49

¹³ CM/Del/Dec(2018)1318/H46-11, <https://hudoc.exec.coe.int/eng?i=004-10897>

¹⁴ CM/Del/Dec(2022)1443/H46-12, [https://hudoc.exec.coe.int/eng?i=CM/Del/Dec\(2022\)1443/H46-12E](https://hudoc.exec.coe.int/eng?i=CM/Del/Dec(2022)1443/H46-12E)

¹⁵ Cf. § 4 of Committee of Ministers’ decision CM/Del/Dec(2018)1318/H46-11 of 7 June 2018.

It has to be recalled as well that life imprisonment without the possibility of release on parole is explicitly provided for by the Fundamental Law of Hungary.¹⁶ The lack of any political will to abandon the concept of whole life sentence is also signified by the fact that since the judgment of the Court in the *T.P. and A.T.* case was issued in October 2016, the Fundamental Law has been amended five times, but the provision on whole life sentence has remained untouched.

Finally, the **Group Action Plan** of 7 July 2023 **argues that** “several **constitutional complaint proceedings are pending** before the Constitutional Court, the outcome of which needs to be awaited before adequate legislative measures can be taken”. This **argument is futile** in relation to the execution of the judgments for two reasons:

- (1) The Group Action Plan does not specify the type of life sentence said constitutional complaints pertain to in the paragraph quoted above. (In an earlier paragraph, it only refers to one constitutional complaint explicitly, the one submitted by László Magyar requesting the constitutional review of the decision setting out parole for him after 40 years.¹⁷ This complaint, submitted in July 2015, is still pending.) In the event that any of the constitutional complaints referred to by the Government pertains to whole life sentence, it shall be pointed out that **the Court ruled** in the *Sándor Varga and Others v. Hungary* case (and subsequently reiterated its finding in the *Coman and Others v. Hungary* case) **that a constitutional complaint is not an effective remedy in respect of prisoners sentenced to a whole life sentence**, given that life imprisonment without the possibility of release on parole is explicitly provided for by the Fundamental Law of Hungary.¹⁸
- (2) Even if the Constitutional Court established in the constitutional complaint proceedings that the respective domestic court decisions or the domestic laws are constitutional, that would not affect in any way the fact that the current domestic legal provisions and decisions imposing life imprisonment without parole violate Article 3 of the Convention as established by the Court. Nor would such Constitutional Court decisions affect in any way that setting the minimum term of parole for over 25 years violates Article 3 of the Convention.

1.2. Rules allowing to set 40 years as the minimum term to be served for parole continue to violate the Convention

In the judgment issued in the *Bancsók and László Magyar (no. 2) v. Hungary* case,¹⁹ the Court assessed the institution of “simple” life sentence as provided for by the Hungarian law, where parole is not excluded. According to Article 43 of Act C of 2012 on the Criminal Code, in such cases, the minimum term to be served before a detainee can be released on parole is to be set between 25 years and 40 years. This minimum term to be served was set for 40 years for both applicants in the case. This fact was “sufficient for the Court to conclude that the applicants’ life sentences cannot be regarded as

¹⁶ Article IV(2) of the Fundamental Law sets out the following: “Life imprisonment without parole may only be imposed for the commission of intentional and violent criminal offences.”

¹⁷ See also: *Bancsók and László Magyar (no. 2) v. Hungary* (Applications nos. 52374/15 and 53364/15, 28 October 2021), §§ 6-7.

¹⁸ “34. However, life imprisonment without the possibility of release on parole is explicitly provided for by the Fundamental Law (see paragraph 13 above) and, as concluded by the Kúria, the possibility of exclusion of eligibility for parole was part of the constitutional legal order (see paragraph 20 above). Consequently, it cannot be said that any issues of “constitutionality” or compatibility with the Fundamental Law of either the court judgments or the provisions of the Criminal Code applied in the applicants’ case arise. In such circumstances the Court considers that the constitutional complaint referred to by the Government did not constitute an effective remedy for the applicants’ grievances.” (*Sándor Varga and Others v. Hungary*, Applications nos. 39734/15 and 2 others, Judgment of 17 June 2021). See also: *Coman and Others* (Applications nos. 49006/18 and 8 others, Judgment of 12 January 2023), § 5.

¹⁹ Applications nos. 52374/15 and 53364/15, 28 October 2021

reducible for the purposes of Article 3 of the Convention” (§ 47). The Court recalled that the 40 years “during which the applicants must wait before they can for the first time expect to be considered for release on parole is a significantly longer period than the maximum recommended time frame after which the review of a life sentence should be guaranteed, established on the basis of a consensus in comparative and international law” (§ 45). This was reiterated by other judgments in the group of cases (in the *Blonski and Others v. Hungary*²⁰ and in the *Horvath and Others v. Hungary*²¹ cases) with regard to life imprisonments with eligibility for release on parole after periods varying between 30 and 40 years.

However, the respective provision of the Criminal Code remains the same to date; **no legislative step has been taken to comply with the judgments and the subsequent decisions of the Committee of Ministers.**

2. LACK OF ADEQUATE INDIVIDUAL MEASURES

In its September 2022 decision, the Committee of Ministers “noted with deep concern that **the individual situation of the applicants in this group has not yet been aligned with the Court’s judgments** as they either continue serving life sentences without eligibility for parole which can only be reviewed under the “mandatory clemency procedure” [...], or they continue serving life sentences with eligibility for parole only after 40 years”. Furthermore, the Committee of Ministers invited the Hungarian authorities to submit information on the individual situation of applicants of the judgments which at that point were part of the group of cases.

Despite this request, **the Group Action Plan of 7 July 2023 does not provide any information on the individual situation of the numerous applicants covered by the group of cases**, other than the applicants in the *T.P. and A.T. v. Hungary* case. However, the information included in the Group Action Plan and the information available to the HHC clearly points in the direction that, in contrast to the Committee of Ministers’ decision, **the individual measures required to bring the violations in the cases of the applicants to an end have not been taken. In addition to the lack of legal changes, this can be attributed to a so-called “uniformity decision” issued by Hungary’s apex court, the Kúria.** (Uniformity decisions are issued by the Kúria to ensure the uniformity of the application of the law by the courts and are binding on them.²²)

After the Kúria conducted a review process in the case of László Magyar due to the Court’s judgment in the *László Magyar v. Hungary* case,²³ the head of the Criminal Division of the Kúria initiated a uniformity procedure, and on 1 July 2015, the Kúria issued **Uniformity Decision no. 3/2015 BJE**.²⁴ The operative part of this uniformity decision sets out the following:

1. *“The exclusion of the possibility of conditional release from life imprisonment is part of the constitutional order and the judicial application of that exclusion is not prohibited under any international treaty, provided that the domestic statutory conditions [for the application thereof] are met. The laws in force, the ECtHR case law, the Constitutional Court’s decision and the 11 June 2015 review decision of the Kúria of Hungary (no. Bfv.II.1812/2014/7) do not*

²⁰ Applications nos. 12152/16 and 6 others, Judgment of 13 October 2022

²¹ Applications nos. 12143/16 and 11 others, Judgment of 2 March 2023

²² Fundamental Law of Hungary, Article 25(3)

²³ Pursuant to Article 648(c) of Act XC of 2017 on the Code of Criminal Procedure, a request for review of a final judgment (*felülvizsgálat*) can be submitted on the basis of a decision by a human rights body set up under an international treaty.

²⁴ The uniformity decision is available here in Hungarian: <https://www.kuria-birosag.hu/hu/joghat/32015-szamu-bje-hatarozat>.

provide any reason for departing from the established court practice developed with regard to the imposition of life imprisonment without eligibility for parole (whole life sentence).

- 2. A [domestic court] decision prompted by a judgment of a human rights body set up under an international treaty and being in conformity with an international instrument promulgated in an Act of Parliament shall be adopted not directly on the basis of the European Convention on Human Rights (Convention) applied in the process of adjudication as a substantive or procedural norm of law, but on the basis of the human rights body's decision, by incorporating it into the Hungarian legal system, and through the application of those [domestic] laws that are unaffected by the Convention violation, in the extraordinary review proceeding as regulated in the Code of Criminal Procedure.”²⁵*

This rather complex text is a concise formulation of the idea explained in more detail in the reasons of the uniformity decision that, in the Kúria's view, since the Court did not find the Hungarian provision allowing the imposition of a whole life sentence to be a breach of the Convention in itself, Hungarian courts can continue to apply this sanction, irrespective of the fact that the regulation of the enforcement of the sentence (i.e. the rules regarding clemency/parole) does not guarantee *de facto* reducibility. According to the uniformity decision, this is a matter for the legislature to solve, and not the adjudicating courts to take into account. This looks to be an artificial separation of the sanction from its enforcement in order to allow for the continued application of the whole life sentence without assessing whether in its actual legal context, it is a punishment that is compatible with the Convention or a sanction in which a breach of the Convention is inherent.

As also presented by the Group Action Plan of 7 July 2023, the original domestic judgments and so the **whole life sentences** of both T.P. and A.T. were **upheld** with a reference to the above Uniformity Decision no. 3/2015 BJE. As stated by the Group Action Plan, the Kúria argued that “the issue of release on parole pertained to the field of enforcement of criminal sentences and thus the deficiencies found by the Court did not affect the lawfulness of the applicants' sentences under the rules of the Criminal Code”, and that is why it upheld the applicants' whole life sentences.

According to information acquired by the HHC, the whole life sentences of at least two applicants in the *Sándor Varga and Others v. Hungary* case were also upheld by the Kúria (decision no. Bfv.I.288/2022/19. of 13 December 2022 and decision no. Bfv.III.493/2022/9. of 12 January 2023²⁶), with a reference to Uniformity Decision no. 3/2015 BJE and using the argumentation contained therein, and in accordance with the motions of the Chief Prosecutor's Office. The Kúria argued, among others, that the Court did not find that the legislation applied by the domestic courts is contrary to the Convention, but that the new mandatory pardon procedure does not comply with the Convention. In the Kúria's view, the Court did not rule on the possibility of imposing the sentence in question, but on the rules of execution, the mandatory pardon procedure, and changing that is a task for the lawmakers, not for those applying the law. In other words, in the Kúria's interpretation, the judgment of the Court objected to a legislative deficiency that does not pertain to the procedure of the sentencing courts and/or on their final decision on the charges.

As explained above, this argumentation **artificially severs the act of sentencing and the direct consequences of sentencing, which are inherent in the sentence imposed**. Furthermore, it also **misinterprets the judgment of the Court in *T.P. and A.T. v. Hungary***, which clearly states among

²⁵ Translation by HHC. The official English translation of the uniformity decision is available at the website of the Kúria at: <https://kuria-birosag.hu/en/uniformity-decisions/operative-part-uniformity-decision-no-32015-bje>. Further extracts from the reasoning are included in English in the *Sándor Varga and Others v. Hungary* judgment (§ 20).

²⁶ Both are available at: <https://eakta.birosag.hu/anonimizalt-hatarozatok>.

others that “alone the fact that the applicants can hope to have their progress towards release reviewed only after they have served forty years of their life sentences is sufficient for the Court to conclude that the new Hungarian legislation does not offer de facto reducibility of the applicants’ whole life sentences”, and that “[i]n view of the lengthy period the applicants are required to wait before the commencement of the mandatory clemency procedure, coupled with the lack of sufficient procedural safeguards in the second part of the review procedure as provided for by the new legislation, the Court is not persuaded that, at the present time, the applicants’ life sentences can be regarded as reducible for the purposes of Article 3 of the Convention”.²⁷

The uniformity decision and the review decisions that have followed it clearly show that Hungary insists on imposing whole life sentences even if that violates the Convention in its current form, and **whole lifers have no chance of being granted the possibility of parole** (and that parole taking place earlier than 40 years of time served) **even if the violation of Article 3 of the Convention is established in their very case**. Thus, **Uniformity Decision no. 3/2015 BJE** goes against the respective judgments of the Court, and, coupled with the unaltered legal provisions, **prevents the execution of the Court’s judgment by allowing the upholding of the rights violations established by the Court**. This gravely infringes Hungary’s obligation to implement the Court’s judgments.

Further information acquired by the HHC shows that the **authorities aim to extend the above argumentation also to review procedures following Court judgments establishing the violation of Article 3 of the Convention in “simple” life sentence cases**: in the case of one of the applicants in the *Horvath and Others v. Hungary* case, the Chief Prosecutor’s Office argued in its motion for review that the original domestic decision should be upheld. While also referring to Uniformity Decision no. 3/2015 BJE, the Chief Prosecutor’s Office argues in its motion among others that the Court’s judgment objected to a “regulatory circumstance” that does not pertain to the procedure and decision of the domestic courts, and did not object to the possibility of imposing the given sentence (i.e. a life imprisonment with the possibility of a parole after 30 or 40 years served) as such or to how the judge established the earliest possible time for a parole. This, again, misinterprets the Court’s respective judgment, which clearly states that “the fact that the applicants in the present case can hope to have their progress towards release reviewed only after they have served thirty to forty years of their life sentences is sufficient for the Court to conclude that the applicants’ life sentences cannot be regarded as reducible for the purposes of Article 3 of the Convention”.²⁸

3. STATISTICAL DATA

In its decision of June 2018, the Committee of Ministers “invited the authorities to provide statistical data on the number of prisoners serving a whole life sentence, the number of mandatory clemency proceedings carried out since its entry into force as well as the number of cases where clemency was granted”.²⁹ However, the Government’s Group Action Plans of 28 January 2019 and of 7 July 2023 do not include such statistics. In addition, access to relevant statistical data by the general public is limited.

For example, data is available upon request about the overall number of detainees serving a whole life sentence (see Table 1) and the number of detainees serving a “simple” life sentence with the possibility of parole, but, to the HHC’s knowledge, no data is collected systematically about the length of the minimum term to be served set for those eligible for parole.

²⁷ §§ 48 and 50

²⁸ *Horvath and Others v. Hungary* (Applications nos. 12143/16 and 11 others, Judgment of 2 March 2023), § 16

²⁹ CM/Del/Dec(2018)1318/H46-11, § 5

Table 1 – Number of detainees serving a whole life sentence³⁰

| | Total number of detainees serving a whole life sentence | Number of detainees serving a whole life sentence on the basis of a final decision | Overall number of detainees |
|------------------|---|--|-----------------------------|
| 31 December 2014 | 49 | 34 | 17,890 |
| 31 December 2015 | 47 | 42 | 17,449 |
| 31 December 2016 | 49 | 47 | 17,658 |
| 31 December 2017 | 54 | 52 | 17,343 |
| 31 December 2018 | 57 | 56 | 16,303 |
| 31 December 2019 | 62 | 60 | 16,334 |
| 31 December 2020 | 69 | 64 | 16,752 |
| 31 December 2021 | 76 | 74 | 18,623 |
| 31 December 2022 | 74 | 72 | 19,347 |

Table 2 – Number of detainees serving a life sentence with the possibility of a parole³¹

| | Total number of detainees serving a life sentence | Overall number of detainees |
|------------------|---|-----------------------------|
| 31 December 2014 | 283 | 17,890 |
| 31 December 2015 | 313 | 17,449 |
| 31 December 2016 | 338 | 17,658 |
| 31 December 2017 | 346 | 17,343 |
| 31 December 2018 | 357 | 16,303 |
| 31 December 2019 | 382 | 16,334 |

According to the publicly available official statistics, the number of pardons/clemencies granted in criminal cases in general has been very low in the past years, as shown by Table 3. However, the data on the nature of cases in which clemency was granted (statistical data on sentences imposed and criminal offences committed in cases where clemency was granted, or individual anonymized clemency decisions) have not been disclosed by the President of the Republic in any format, despite freedom of information requests addressed to the Office of the President of the Republic and ensuing lawsuits launched by the HHC and an online news portal with the assistance of the Hungarian Civil Liberties Union.³²

³⁰ Source: Responses no. 30500/12347-8/2022 and 30500/1347/2023 of the National Penitentiary Headquarters to the HHC's freedom of information request, 2 January 2022 and 27 March 2023. It shall be mentioned that three years ago the National Penitentiary Headquarters (NPH) stopped publishing on a regular basis basic data on the operation on the penitentiary system. The NPH used to periodically publish the most important statistical data related to detention in its own online paper called the *Review of Prison Statistics (Börtönstatisztikai Szemle*, the existing issues are available here: <https://bv.gov.hu/hu/bortonstatisztikai-szemle>). Since the second half of 2020, no issue has been published. Therefore (and since the data provided by the NPH to the National Office of Statistics are not sufficiently detailed for a thorough analysis), the HHC has to go through the process of submitting freedom of information requests to obtain the data needed to conduct statistical monitoring related to the implementation of the Court's judgments that concern detention.

³¹ Source: National Penitentiary Headquarters, https://bv.gov.hu/sites/default/files/Bortonstatisztikai_Szemle_2020.pdf, p. 16.

³² For details, see the HHC's Rule 9(2) communication submitted in the *László Magyar v. Hungary* case in May 2016 (DH-DD(2016)646, [https://hudoc.exec.coe.int/eng/?i=DH-DD\(2016\)646E](https://hudoc.exec.coe.int/eng/?i=DH-DD(2016)646E), pp. 7–8.).

Table 3 – Clemency decisions aimed at the reduction or the waiver of a sentence³³

| Year | Clemency granted | Rejection | Number of all clemency decisions | Percentage of clemencies granted as compared to all decisions |
|------|------------------|-----------|----------------------------------|---|
| 2014 | 4 | 749 | 753 | 0.53% |
| 2015 | 24 | 792 | 816 | 2.94% |
| 2016 | 22 | 473 | 495 | 4.44% |
| 2017 | 11 | 662 | 673 | 1.63% |
| 2018 | 4 | 452 | 456 | 0.88% |
| 2019 | 8 | 500 | 508 | 1.57% |
| 2020 | 13 | 383 | 396 | 3.28% |
| 2021 | 15 | 493 | 508 | 2.95% |
| 2022 | 17 | 350 | 367 | 4.63% |

4. RECOMMENDATIONS

For the reasons above, the HHC respectfully recommends the Committee of Ministers **to continue examining the execution of the judgments** in the *László Magyar v. Hungary* group of cases **under the enhanced procedure**. Furthermore, we respectfully recommend the Committee of Ministers to call on the Government of Hungary to:

1. **Abolish the institution of life imprisonment without the possibility of parole** (whole life sentence) from both the respective laws and the Fundamental Law of Hungary.
2. **Establish a review system for those already sentenced to whole life imprisonment** which complies with the standards set by the Court with respect to the decision-making process, applicable procedural safeguards and its timing, and which provides a real prospect of release.
3. **Ensure that a review** complying with the standards set by the Court **takes place no later than 25 years** after the imposition of every life sentence, with further periodic reviews thereafter.
4. **Collect and make publicly accessible relevant data**, including on the nature of cases in which (either positive or negative) pardon decisions have been made, and statistical data on the length of the minimum terms to be served before persons convicted for life sentence can be considered for parole.
5. **Ensure that the rights violations suffered by the applicants** in the *László Magyar v. Hungary* group of cases **are fully remedied** and that they are eligible for parole in accordance with the guidance of the Court and the Committee of Ministers; and provide information to the Committee of Ministers on the individual situation of each applicant covered by the group of cases.

³³ Source: website of the Ministry of Justice, <https://igazsagugyiinformaciok.kormany.hu/download/2/e0/23000/statisztika%202002%20janu%C3%A1r%201-2023%20j%C3%BAnius%2030%20-%20kegyelmi%20%C3%BCgyek.pdf>. Note that an earlier version of this document (<https://igazsagugyiinformaciok.kormany.hu/download/0/9f/e2000/statisztika%202002%20janu%C3%A1r%201-2021%20december%2031%20-%20kegyelmi%20%C3%BCgyek.pdf>) showed different numbers for the years 2020 and 2021.

Sincerely yours,



András Kristóf Kádár
co-chair
Hungarian Helsinki Committee

Annexes:

- Annex 1 – Decision no. Bfv.I.288/2022/19. of the Kúria, 13 December 2022
(anonymized version downloaded from <https://eakta.birosag.hu/anonimizalt-hatarozatok>)
- Annex 2 – Decision no. Bfv.III.493/2022/9. of the Kúria, 12 January 2023
(anonymized version downloaded from <https://eakta.birosag.hu/anonimizalt-hatarozatok>)