HUNGARIAN HELSINKI COMMITTEE

24 May 2024, Budapest

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

F-67075 Strasbourg Cedex
France
dgi-execution@coe.int

Subject: NGO communication with regard to the execution of the judgments of the European Court of Human Rights in the *X. Y. v. Hungary* (Application no. 43888/08, Judgment of 19 March 2013) 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 *X. Y. v. Hungary* (Application no. 43888/08, Judgment of 19 March 2013) group of cases.

The HHC is an independent human rights watchdog organisation, with one of its strategic goals being to decrease unjustified pre-trial detention in Hungary and to ensure that the regulation and practice of pre-trial detention complies with the standards set by the European Court of Human Rights (ECtHR) through monitoring, research, advocacy and litigation. In the past years, the HHC participated in many domestic and international research projects related to pre-trial detention and the right to effective defence,[1] and has repeatedly raised the issue in its reports prepared for international organisations, such as the UN Human Rights Committee,[2] the UN Working Group on Arbitrary Detention,[3] or in the framework of the Universal Periodic Review.[4] The HHC also commented extensively[5] on the working papers and the draft of the new Code of Criminal Procedure that was finally adopted in 2017, bringing changes in the system of pre-trial measures in Hungary. In order to enhance accessibility of the case-law, we compiled manuals in Hungarian for judges and attorneys, presenting the practice of the ECtHR

[1] See for example the country report on Hungary prepared by the HHC in the framework of the research project "The Practice of Pre-Trial Detention: Monitoring Alternatives and Judicial Decision-Making": http://www.helsinki.hu/wp-content/uploads/PTD_country_report_Hungary_HHC_2015.pdf.
[2] The HHC's latest shadow report from 2018 is available here: https://helsinki.hu/wp-content/uploads/HHC_submission_to_HRC_12022018.pdf – see in particular p. 7.
[3] The HHC' related briefing paper is available here: https://helsinki.hu/wp-content/uploads/HHC_briefing-paper_UNWGAD_8_Oct_2013.pdf.
[4] The HHC's latest submission from 2021 is available here: https://helsinki.hu/wp-content/uploads/2021/03/HHC_UPR2021_Hungary_criminal_justice_web.pdf – see in particular p. 3.
[5] See: https://helsinki.hu/jogszabaly-velemenyezes-buntetoeljaras/.

with regard to pre-trial detention.[6] The HHC's attorneys have represented applicants successfully in cases in which the ECtHR stablished that the applicants' pre-trial detention violated Article 5 of the European Convention on Human Rights, including in the case *X.Y. v. Hungary* itself.[7]

The HHC's present communication reacts to the Hungarian government's Revised Group Action Plan submitted in the *X.Y. v. Hungary* group of cases on 24 November 2022 (hereinafter: Revised Group Action Plan).[8]

EXECUTIVE SUMMARY

The *X.Y. v. Hungary* group of cases concerns different violations of the applicants' right to liberty and security under Article 5 of the Convention on account of (a) their unlawful detention (Article 5 § 1); (b) their unreasonably long pre-trial detention (Article 5 § 3); (c) the domestic courts failure to give sufficient reasons for their continued pre-trial detention (Article 5 § 3); (d) an infringement of the principle of "equality of arms" as they had no access to the relevant material of the investigation when challenging their detention (Article 5 § 4); and (e) the excessive length of the judicial review of their detention (Article 5 § 4).

The judgments in the *X.Y. v. Hungary* group of cases cannot be considered as implemented for the following reasons. While the new Code of Criminal Procedure that entered into force in July 2018 brought along positive changes in the legal framework in the area of pre-trial detention and coercive (pre-trial) measures in general, no representative and/or large-scale research has been conducted to assess the impact of these legal changes, neither by the Government, nor by other state actors. Without such research, it is impossible to assess the current practice of the authorities regarding pre-trial detention and its compliance with ECtHR standards, and to ascertain whether the new rules indeed facilitated positive trends in the practice or not. This is especially so considering that statistical data show a worrying picture. After 2019, the number of pre-trial detentions ordered and the proportion of pre-trial detainees has increased; at the end of 2023, the proportion of pre-trial detainees was 23.6% and their number was much higher than at the end of 2019. The success rate of prosecutorial motions aimed at pre-trial detention during the investigative phase remains high, and it shows a slight upward trend since 2019, with large territorial differences between counties. Alternative, non-custodial pre-trial measures remain severely underused. In spite of what is suggested by the Revised Group Action Plan, the increase in pre-trial detentions and the current numbers cannot be attributed solely to human smuggling cases. Excessive length of pre-trial detentions in general remains a systemic problem as well; of the new violations found by the ECtHR in 2022, most concerned lengthy judicial proceedings or pre-trial detention. The surge in the number of pre-trial detainees contributed to the highest prison population in 33 years, and so *the X.Y.* group of cases is intertwined with the *István Gábor Kovács* and *Varga and Others v. Hungary* group of cases which concern prison overcrowding and substandard detention conditions.

---

[6] András Kristóf Kádár – Eszter Kirs – Adél Lukovics – Zsófia Moldova – Balázs M. Tóth*: Az Emberi Jogok Európai Bíróságának előzetes letartóztatással kapcsolatos gyakorlata – Kézikönyv ügyvédek számára / Kézikönyv bírák számára*. *[The practice of the European Court of Human Rights related to pre-trial detention – Manual for attorneys / Manual for judges*, 2014. Available at: http://www.helsinki.hu/wp-content/uploads/HHC_Kezikonyv_ugyvedek_szamara_2014_web.pdf, http://www.helsinki.hu/wp-content/uploads/HHC_Kezikonyv_birak_szamara_2014_web.pdf.

[7] Further cases concerning pre-trial detention where the applicants were represented by HHC attorneys include the following: *Bandur v. Hungary* (Application no. 50130/12, Judgment of 5 July 2016), *Süveges v. Hungary* (Application no. 50255/12, Judgment of 5 January 2016), *Baksza v. Hungary* (Application no. 59196/08, Judgment of 23 April 2013), *A.B. v. Hungary* (Application no. 33292/09, Judgment of 16 April 2013), *Ferencné Kovács v. Hungary* (Application no. 19325/09, 20 December 2011), *Darvas v. Hungary* (Application no. 19547/07, Judgment of 11 January 2011).

[8] DH-DD(2022)1304, https://hudoc.exec.coe.int/eng?i=DH-DD(2022)1304E

***

1. LACK OF INFORMATION ON THE JURISPRUDENCE

1.1. Lack of information and government-commissioned research on the practice of authorities

The *X.Y. v. Hungary* group of cases centres first and foremost on the *practice* of pre-trial detention violating Article 5 § 3 and 4 of the Convention due to the applicants' unreasonably long pre-trial detention, the domestic courts' failure to give sufficient reasons for the continued pre-trial detention of defendants, an infringement of the principle of "equality of arms" as applicants had no access to the relevant material of the investigation when challenging their detention, and the excessive length of the judicial review of pre-trial detention. Thus, the group of cases largely concerns the *substance* of the authorities' decisions.

Therefore, **while it is important to assess the relevant legal changes, it is equally important to assess the practice of authorities regarding pre-trial coercive measures beyond statistical data, which the Revised Group Action Plan fails to do**. Assessing the substance of prosecutorial motions and judicial decisions would be crucial as the substantial deficiencies that the cases in the *X.Y. v. Hungary* group shed light on were prevalent and systemic in the Hungarian criminal justice system, as also shown by researches carried out e.g. by the HHC and the Kúria (Hungary's apex court).[9] Deficiencies identified earlier included that court decisions on pre-trial detention had often been abstract, and had failed to assess the defendant's individual circumstances and/or the possibility of alternative pre-trial measures. The prosecution's arguments were accepted more frequently than those of the defence, which was coupled with the frequent lack of adequate reasoning in general. Furthermore, courts often failed to consider the ECtHR's related case-law.

The need for a change in the practice of the authorities was also acknowledged by the legislator, as demonstrated by the new Code of Criminal Procedure (Act XC of 2017, CCP), which entered into force on 1 July 2018 and indeed brought positive conceptual changes in terms of pre-trial measures. These include that the CCP's structure and wording makes it clear that pre-trial detention is a "last resort", the diversifying of alternative, non-custodial pre-trial coercive measures, or that the new CCP greatly enhanced equality of arms and access to case files in the investigation phase.[10]

While these positive changes in the law should be acknowledged, it should be emphasized that their effectiveness and whether they indeed contributed to eliminating substantial deficiencies regarding judicial decision-making and authorities' practice in general and whether they facilitated a Convention-compliant approach and practice can only be assessed through the review of the motions and decisions of the authorities. However, it seems that **no such review or research has been carried out to date by the state**.

The Revised Group Action Plan declares that the new CCP *"has brought about a change of approach* *in the practice of coercive measures affecting arrest and, more broadly, affecting liberty, which require*

[9] See e.g.: Tamás Fazekas – András Kristóf Kádár – Nóra Novoszádek, *The Practice of Pre-Trial Detention: Monitoring Alternatives and Judicial Decision-Making. Country report – Hungary,* October 2015, http://www.helsinki.hu/wp-content/uploads/PTD_country_report_Hungary_HHC_2015.pdf; Report of the Curia's Judicial Analysis Group (2017).

[10] Positive changes in the area of equality of arms and access to case files in the investigation phase of the criminal procedure were first brought about by the implementation of Directive 2012/13/EU on the right to information in criminal proceedings, and this was enhanced by the new CCP, according to which the defence is, by default, entitled to get access to all the case materials already during the investigation, and the law provides for exceptions to this main rule. For more details, see: András Kristóf Kádár – Nóra Novoszádek – Dóra Szegő, *Inside Police Custody 2 – Country Report for Hungary, 2018*, https://helsinki.hu/wp-content/uploads/IPC_Country_Report_Hungary_Eng_fin.pdf, pp. 59-71.

judicial authorisation", **but it fails to provide any evidence for that, i.e. fails to underpin this statement with any concrete data or research results**. The reason for this presumably is that, based on publicly available information, **no representative and/or large-scale research has been conducted to assess the impact of the changes in the legal framework brought by the new CCP in the area of pre-trial measures, neither by the Government, nor by other state actors**, and there is no information that would indicate that the Government commissioned such a report from independent actors.

Without such research, it is impossible to assess the current practice of the authorities regarding pre-trial detention and other coercive measures and its compliance with ECtHR standards, and to ascertain whether the new CCP (and the related instructions by the Prosecutor General cited by the Revised Group Action Plan) **indeed facilitated positive trends in the practice or not.** Accordingly, without such research, **it is impossible to assess whether the Government has taken the necessary general measures to prevent similar violations in this regard when it comes to the implementation of the judgments in the *X.Y. v. Hungary group* of cases.**

1.2. Lack of professional literature on the practice under the new Code of Criminal Procedure

The Revised Group Action Plan (in para. 4.) also states the following: "*There are papers in the professional literature, which argue that in recent years the application of the law has fortunately started to move in the right direction, so that deprivation of personal liberty before a final judgment is only taken in the most necessary cases, on the basis of a reasoned decision and for a reasonable period of time, and the change in attitude is clearly evident."* However, again, **the Government failed to** provide concrete evidence for its statements and failed to **identify the papers it referred to which supposedly show a "change in attitude"**.

This is a substantial gap in the information provided by the Government, exacerbated by the fact that, **based on the HHC's own review of the publicly available professional literature, no in-depth studies or thorough analyses were carried out in connection with regard to the practice of authorities and the courts in relation to coercive measures under the new CCP by scholars or practitioners either.** Most of the available articles and studies stick to analysing the text of the CCP, and include little to no insight into the practice – and when they do, they mostly voice concerns. (It shall be added that representative and/or large-scale research by outside actors, such as civil society organisations, would only be possible with the active involvement of the authorities, since they would have to provide access to case files, etc.) The concerns of scholars and practitioners can be summarised as follows.

(i) One of the few studies available on the jurisprudence under the new CCP regarding coercive measures is from Erzsébet KADLÓT, PhD (honorary associate professor at the University of Szeged, former secretary general of the Hungarian Society of Criminology). Ms KADLÓT, who is also an actively practising attorney-at-law, wrote her study about the judicial practice of pre-trial measures affecting personal liberty one year after the CCP had come into force, in 2019.[11] She concluded that the new CCP brings positive changes in the field of legislation, but the approach of the judiciary remains the same as it used to be, making no use of the new opportunities introduced by the CCP.

Considering the general provisions on applying pre-trial measures (Sections 276–277 of the CCP), Ms KADLÓT points out that many of the reasons for ordering pre-trial measures affecting personal freedom are hypothetical, referring to future conditionals, thus forcing the judge to draw assumptions

[11] Erzsébet KADLÓT, Az illúziók vége – „ásatag" gyakorlatok továbbélése a kényszerintézkedések kapcsán [End of Illusions – The survival of "Outdated" Practices Regarding Coercive Measures], *Miskolci Jogi Szemle*, Volume no. 14 (2019), Special Issue no. 2, Volume no. 1, pp. 438-447, available at: https://www.mjsz.uni-miskolc.hu/files/6571/41_kadloterzsebet_t%C3%B6rdelt.pdf.

from assumptions.[12] E.g., Section 276(2)(bb) allows the ordering of pre-trial detention to *"prevent the complication or frustration of the taking of evidence if it is reasonable to assume that the defendant would jeopardise the taking of evidence".*

She also points out that amendments introduced by the CCP regarding pre-trial measures affecting personal liberty have little to no effect during the investigation phase of the criminal procedure. She emphasises that the text of the CCP says nothing about the substantive conditions of applying coercive measures (it does not even mention as a precondition that the criminal offence in question shall be punishable by imprisonment). The judiciary clings to the former opinion of the Supreme Court (predecessor of the Kúria) that the basis of the suspicion shall not be reviewed when deciding upon pre-trial measures. Ms KADLÓT states in this regard: "*It is rare for investigating judges to take a different, ECtHR case-law-conform approach in this question, and even if they do so, reasonable concerns regarding the basis of suspicion are not taken into consideration."*[13] It is also noted by her that *"Courts remain a captive of the past, as instead of objective facts and pieces of evidence, theoretical suppositions are still being made part of the reasoning strengthening suspicion, disregarding the general rules of assessing proofs."* [14] She also found that the reasoning of decisions on coercive measures usually lacks any reference to Section 271 of the CCP on the general rules of applying pre-trial measures. The importance of the former Section is usually marginalised by the judges and bypassed with referring to the gravity and seriousness of the criminal offence at hand.[15]

As for pre-trial detention, it remains the most commonly used coercive measure and in her view is still considered by judges as a criminal sanction rather than an action facilitating the effectiveness of the criminal procedure. Commonly, the ordering of pre-trial detention is based on the overall damage caused by the criminal offence (even if it was committed by more than one suspect), the quantity of drugs involved, or the method of commission. As Ms KADLÓT emphasises, *"these are the terminus technicus of a judgment, thus, coercive measures should not be based on them as these are the very questions usually unproven during the early phases of the procedure".*[16]

In other pieces of literature, the text of the CCP received moderately positive reviews; the authors voiced concerns however whether these positive opportunities (e.g. the use of less strict coercive measures instead of pre-trial detention) will be utilised by the judiciary.

(ii) As Róbert BRATKÓ, PhD (senior lecturer, Department of Criminal Studies at the Széchenyi University of Győr, Faculty of Law) and András György PAYRICH, PhD (assistant lecturer, Department of Criminal Studies at the Széchenyi University of Győr, Faculty of Law) state in their study: *"It shall be emphasised that the new legal institution and the new legal solutions regulated in the new Code will require the changing of the legal mind. A lot of new, up-to-date and acceptable legal solution can be found in the Code, however we have mixed feelings with reference to the coercive measures."*[17]

(iii) Prof. Erika RÓTH, PhD (head of department, Department of Criminal Procedure and Criminal Enforcement Law at the University of Miskolc, Faculty of Law) reached the following conclusion in her article from 2021: *"When framing the new rules of the CCP, the aim of the legislator was to aggravate the use of less strict coercive measures; however, it could be seen from the few data available on the*

[12] Ibid., p. 442.
[13] Ibid., p. 446.
[14] Ibid., p. 447.
[15] Ibid., p. 446.
[16] Ibid., p. 447.
[17] Róbert BRATKÓ – András György PAYRICH, Comparative Study on the Pre-trial Detention with Reference to the New Hungarian Code on Criminal Procedure, *International and Comparative Law Review*, Volume 17 (2017), Issue no. 2, pp. 169-178, available at: https://sciendo.com/article/10.2478/iclr-2018-0022.

practice of judges that the amendment had no significant impact on the (point of view of the) jurisprudence."[18]

1.3. Individual examples of pre-trial detention violating ECtHR standards

Below we present as examples individual cases to demonstrate that substantial deficiencies regarding the ordering and upholding of pre-trial detention remain under the new CCP as well. Applications to the ECtHR were submitted by HHC attorneys on behalf of both detainees below.

(i) One of the HHC's clients[19] was in pre-trial detention from 20 January 2020 to 3 June 2022 (i.e. for over 2 years and 4 months) before starting to serve her sentence. Her pre-trial detention was based on the risk of re-offending and absconding for the entirety of this period, even though she had a summonable address, lived with her family, had a declaration of support from close relatives, and had close relationships with her husband and daughter. The applicant has reported herself at the police in the proceedings, so it was unrealistic that she would re-offend, also because at the time of the ordering of the pre-trial detention, she was working as a cleaner, so she was not in the position to commit offences similar to those she committed in her capacity as a real estate agent earlier. She cooperated with the investigating authorities. She was released into criminal supervision by the first instance (district) court reviewing her pre-trial detention twice (after 6 and then 10 months), but the second instance court changed the decision and upheld the pre-trial detention instead both times. The situation of the applicant is particularly worrying in light of her health: the penitentiary institutions cannot provide her with adequate food due to her severe food and preservative allergies. As a result, her body weight has decreased abnormally, and her allergic reactions have led to several hospital emergency treatments during her detention.

(ii) Another client of the HHC,[20] who was diagnosed with psychiatric disorders years ago and received treatment on a sporadic basis, was placed in custody as a result of a series of incidents involving assault against an official during his apprehension. He suffered serious, life-threatening injuries during the police operation, was immediately hospitalized, and was comatose for weeks. His pre-trial detention was ordered in July 2021 while he was hospitalized with said serious, life-threatening injuries, and was bound to a hospital bed of an ITC unit. Therefore, the risks cited by the courts, such as the risk of absconding, collusion and re-offending could be just hypothetical possibilities, not actual ones. The applicant's pre-trial detention was carried out in the hospital. Later on, in November 2021, he was placed under temporary forensic observation instead, and remains subject to this measure and detained in the Forensic Psychiatric and Mental Institution to this day.

2. SURGE IN THE NUMBER OF PRE-TRIAL DETAINEES

As also acknowledged by the Revised Group Action Plan, after years of decrease in the number and proportion of pre-trial detainees between 2014 and 2019, the trend has turned. From 31 December 2019 to 31 December 2022, the proportion of pre-trial detainees within the total prison population increased from 16.6% to 24.6%, while their number increased from 2,709 to 4,764. Although this was followed by a very slight decrease, **at the end of 2023 the proportion of pre-trial detainees was still**

[18] Erika RÓTH: A személyi szabadságot érintő kényszerintézkedések új rendszere [The New System of Coercive Measures Affecting Personal Liberty], *Miskolci Jogi Szemle*, Volume 16 (2012), Special Issue no. 3., pp. 482-495, available at: https://ojs.uni-miskolc.hu/index.php/jogiszemle/article/view/1488/1108.
[19] Application no. before the ECtHR: 54848/21
[20] Application no. before the ECtHR: 7705/22

23.6% and their number was much higher than at the end of 2019, the first full year the new CCP was in effect **(4,227 as compared to 2,709).**

Figure 1 – Number and proportion of pre-trial detainees compared to the total prison population on 31 December and 30 June each year (2019–2023)[21]

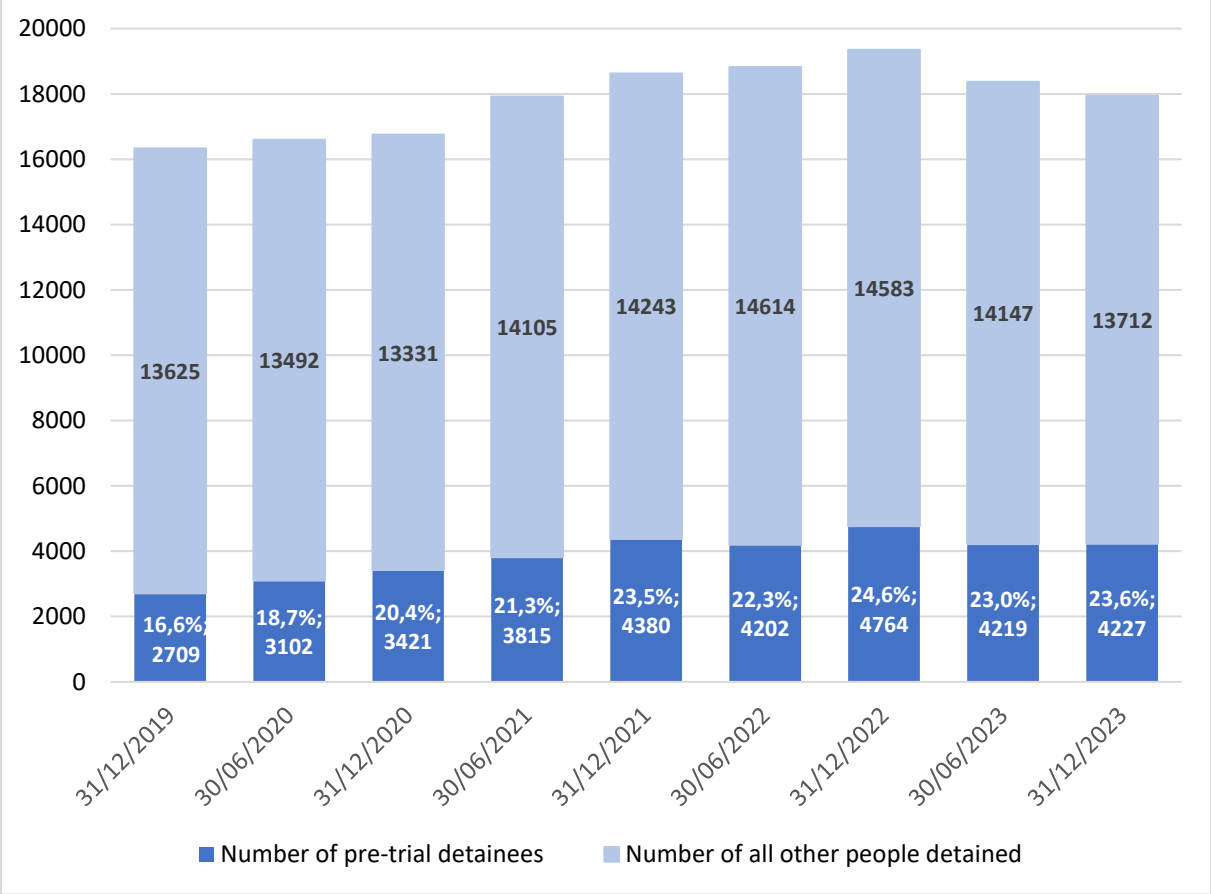

Table 1 – Average number and ratio of pre-trial detainees within the average overall prison population; changes between each year (2019–2022)[22]

Year	Average no. of people detained in prisons	Change between years (%)	Average no. of pre-trial detainees	% of pre-trial detainees within prison population (%)
2019	16,664	-3.5%	2,721	**16%**
2020	16,726	0.4%	3,119	**19%**
2021	17,905	6.6%	3,908	**22%**
2022	18,887	5.2%	4,407	**23%**

The average yearly number of pre-trial detainees and their proportion within the prison population has increased as well between 2019 and 2022 (see Table 1 above). No annual data is available yet for 2023 concerning the average number of all detainees and pre-trial detainees, but the last available monthly average numbers show that the trend has not changed: **in December 2023, 23.3% of the total**

[21] Source: responses no. 30500/12347-8/2021, 30500/7297-10/2022 and 30500/1043-/2024.ált. issued by the National Prison Administration to the HHC's FOI requests on 2 January 2022, 29 August 2022 and 5 March 2024.
[22] Source: data issued by the National Prison Administration in response to the HHC's several FOI requests. Changes in comparison to the previous year are based on the HHC's own calculation.

prison population consisted of pre-trial detainees (4,207 out of 18,071) **while in January 2024, the proportion was 23.4%** (4,213 out of 17,990).[23]

As also shown by statistics included in the Revised Group Action Plan up to the year 2021 (para. 6.), the number of motions by the investigating authority and by the prosecution service aimed at ordering pre-trial detention started to increase after 2019, which brought along an increase in the number of court decisions ordering pre-trial detention as well.[24] **The proportion of successful proposals by the investigating authority** (i.e. based on which the prosecution put forth a motion for pre-trial detention) **has shown an increase** when taking 2019 as a baseline, and reached **84.4% in 2022** as shown by Table 2 below. As also shown by the numbers included in the Revised Group Action Plan (paras 6-7.) and the table below, **the success rate of prosecutorial motions aimed at pre-trial detention during the investigative phase remains high, and it shows a slight upward trend since 2019: by 2022, it reached 91% again**. In addition, **territorial differences** remain large, with certain counties e.g. in 2022 exhibiting prosecutorial motion success rates far exceeding the national average. For example, the success rate was **100% in Tolna county, 99.20% in Bács-Kiskun county, 98.67% in Vas county**, and was over 95% in further eight counties. In contrast, Budapest recorded a significantly lower success rate of 73.94% in 2022.[25]

Table 2 – Proposals by the investigating authority, motions by the prosecution and court decisions aimed at ordering pre-trial detention (2019–2022)[26]

Year	Proposals by the investigating authority	Motions by the prosecution upon proposal (% of proposals by investigating authority)	Motions by prosecution upon proposal and ex officio	Pre-trial detention ordered by the court ex officio	Upon the motion of the prosecution, the court		
					ordered pre-trial detention (% of prosecutorial motions)	did not order pre-trial detention	ordered another coercive measure
2019	3,750	2,931 (78.16%)	3,759	21	3,330 (88.58%)	92	262
2020	4,471	3,604 (80.60%)	4,359	8	3,871 (88.80%)	90	287
2021	5,344	4,456 (83.38%)	5,151	14	4,685 (90.95%)	101	279
2022	5,580	4,710 (84.40%)	5,571	3	5,072 (91.04%)	130	285

In addition, **alternative, non-custodial pre-trial measures continue to be severely underused**. As put by the Revised Group Action Plan (para. 16.), *"[t]he number of other coercive measures ordered by the court instead of an arrest has not changed in magnitude"* – see the last column of Table 2 above as well in this regard. The number of criminal supervisions (*bűnügyi felügyelet*) ordered by the court upon

[23] Source: response no. 30500/1043-/2024.ált. issued by the National Prison Administration to the HHC's FOI request on 5 March 2024.

[24] Please note that the latest respective statistics available pertain to 2022. According to the website of the prosecution service, the statistics for 2023 are expected to be published in October 2024 (see: https://ugyeszseg.hu/statisztikai-adatok/ugyeszsegi-statisztikai-tajekoztato-buntetojogi-szakterulet/, https://ugyeszseg.hu/statisztikai-adatok/buntetobirosag-elotti-ugyeszi-tevekenyseg/).

[25] For numbers detailed by counties, see: *Ügyészségi Statisztikai Tájékoztató – Büntetőjogi szakág. A 2022. évi tevékenység [The Statistical Information Leaflet of the Prosecution – Criminal Field. Activities in 2022]*, https://ugyeszseg.hu/wp-content/uploads/2023/11/buntetojogi-szakag-2022.-ev.pdf, p. 60, Table 59.

[26] Ibid.

a prosecutorial motion aimed at ordering criminal supervision remains also very low as compared to pre-trial detentions, as shown by Table 3 below.

Table 3 – Proposals by the investigating authority, motions by the prosecution and court decisions aimed at ordering criminal supervision (2019–2022)[27]

Year	Proposals by the investigating authority	Motions by the prosecution upon proposal	Motions by prosecution upon proposal and ex officio	Criminal supervision ordered by the court ex officio	Upon the motion of the prosecution, the court		
					ordered criminal supervision	did not order criminal supervision	ordered another coercive measure
2019	135	115	332	68	302	17	3
2020	154	125	436	80	408	13	4
2021	185	149	477	99	431	32	5
2022	174	150	504	96	483	16	2

The underuse of criminal supervision as compared to pre-trial detention is also shown by the proportion of coercive measures applied at the time of filing the indictments and at the time of issuing the first instance court decisions, as detailed by Table 4 and 5.

Table 4 – Proportion of coercive measure at the time of filing the indictment (2019–2022)[28]

Year	72-hour detention	Pre-trial detention	Criminal supervision	Geographical ban	House arrest	Temporary forensic observation
2019	12.96%	72.39%	3.84%	5.20%	5.24%	0.38%
2020	13.70%	72.49%	7.73%	2.86%	2.31%	0.90%
2021	10.67%	74.04%	9.58%	2.89%	2.07%	0.74%
2022	9.98%	75.08%	11.77%	1.70%	0.94%	0.52%

Table 5 – Proportion of coercive measure at the time of the first instance court decision (2019–2022)[29]

Year	72-hour detention	Pre-trial detention	Criminal supervision	Geographical ban	House arrest	Temporary forensic observation
2019	11.43%	73.22%	6.87%	5.17%	2.87%	0.45%
2020	12.35%	72.48%	12.20%	1.54%	0.46%	0.97%
2021	10.00%	76.17%	12.70%	0.25%	0.12%	0.75%
2022	9.57%	76.68%	12.93%	0.19%	0.16%	0.47%

As far as the infrastructure available for criminal supervision is concerned, it shall be mentioned that in February 2024 it was reported by a news portal that the electronic monitoring (i.e. the ankle bracelet) system operated by the police stopped working for weeks in October and November 2023.[30]

Finally, it has to be pointed out that the study by Ms Erika RÓTH referenced by the Revised Group Action Plan in para. 9. does not in fact *"support[…] a reduction in the scale of arrests in Hungary*" for

[27] Ibid., p. 59, Table 58.

[28] *A büntetőbíróság előtti ügyészi tevékenység főbb adatai. A 2022. évi tevékenység [Main Data on Prosecutorial Activities before the Criminal Courts. Activities in 2022],* https://ugyeszseg.hu/wp-content/uploads/2023/11/buntetobirosag-elotti-ugyeszi-tevekenyseg-fobb-adatai-i.-2022.-ev.pdf, p. 46, Table V/502.

[29] Ibid., p. 49, Table V/507.

[30] See: https://444.hu/2024/02/22/azert-szokhetett-meg-a-pedofiliaval-gyanusitott-ferfi-a-hazi-orizetbol-mert-hetekre-leallt-a-rendorseg-nyomkoveto-rendszere.

the period relevant from the viewpoint of the present communication, since the comparative study by Catherine HEARD and Helen FAIR, referenced by Ms RÓTH in her article and by the Revised Group Action Plan, made the statements about the decrease in the number of pre-trial detainees in Europe regarding the period between 2000 and 2016. [31]

3. EXCESSIVE LENGTH OF PRE-TRIAL DETENTION

Judgments in the *X.Y. v. Hungary* group of cases also established the violation of Article 5 of the Convention due the applicants' unreasonably long pre-trial detention. Excessive length of pre-trial detentions is also a long-standing systemic problem in Hungary, and, therefore, it is necessary to put the respective statements of the Government into context.

According to the Revised Group Action Plan, *"the prosecution statistics for the period 2015-2021 show that the highest proportions of arrests* [i.e. pre-trial detentions] *last for 3-4 months and 5-6 months respectively. The number of arrests over 1 year is not high in relation to the number of arrests ordered, but shows a slight upward trend"* (para. 15.). Firstly, it shall be highlighted in this regard **that the statistics published by the prosecution service** referenced here cover the length of pre-trial detentions that *ended* in a respective year (i.e. were terminated or ended because of a conviction), thus, they **do not show the length of the *ongoing* pre-trial detentions**. Secondly, the prosecution service's statistics show that in 2021 and 2022, the proportion of closed pre-trial detentions exceeding 1 year constituted 9.2% and 9.1% of all closed pre-trial detentions, respectively (see Table 6 below).[32] However, there is no information available as to the extent these pre-trial detentions exceeded 1 year. Thirdly, the county-level detailed data published by the prosecution service show that there are huge **territorial differences**, and **there are counties where the proportion of closed pre-trial detentions exceeding 1 year is much higher**. To take the worst examples: the proportion of such pre-trial detentions was the highest, **30.3% in Békés county in 2021**, and was **28.8% and 28.6% in 2022 in Békés and Borsod-Abaúj-Zemplén counties**, respectively.[33]

[31] Catherine HEARD – Helen FAIR, *Pre-Trial Detention and Its Over-Use. Evidence From Ten Countries*, Institute for Crime & Justice Policy Research, Birkbeck, University of London, 2019, https://www.prisonstudies.org/sites/default/files/resources/downloads/pre-trial_detention_final.pdf , pp. 2-3.

[32] *Ügyészségi Statisztikai Tájékoztató – Büntetőjogi szakág. A 2022. évi tevékenység [The Statistical Information Leaflet of the Prosecution Service – Criminal Field. Activities in 2022]*, https://ugyeszseg.hu/wp-content/uploads/2023/11/buntetojogi-szakag-2022.-ev.pdf, p. 65, Table 64.

[33] *Ügyészségi Statisztikai Tájékoztató – Büntetőjogi szakág. A 2021. évi tevékenység [The Statistical Information Leaflet of the Prosecution Service – Criminal Field. Activities in 2021]*, https://ugyeszseg.hu/wp-content/uploads/2022/11/buntetojogi-szakag-2021.pdf, p. 64, Table 64.; *Ügyészségi Statisztikai Tájékoztató – Büntetőjogi szakág. A 2022. évi tevékenység [The Statistical Information Leaflet of the Prosecution Service – Criminal Field. Activities in 2022]*, https://ugyeszseg.hu/wp-content/uploads/2023/11/buntetojogi-szakag-2022.-ev.pdf, p. 65, Table 64.

Table 6 – Length of pre-trial detention ending in a given year (2019–2022)[34]

	Total	Within 1 month	Between 1 months and 1 year	From that											Over 1 year
				1-2 months	2-3 months	3-4 months	4-5 months	5-6 months	6-7 months	7-8 months	8-9 months	9-10 months	10-11 months	11-12 months	
2019	3,160	552	2,361	165	262	416	185	458	197	166	204	123	71	114	247 (7.8%)
2020	3,567	500	2,805	200	320	581	206	517	194	176	239	157	90	125	262 (7.3%)
2021	4,380	592	3,387	220	439	608	225	656	247	242	302	170	109	169	401 (9.2%)
2022	5,397	896	4,009	391	464	697	259	835	240	244	365	211	124	179	492 (9.1%)

As far as the average length of pre-trial detention is concerned, **according to the *Council of Europe Annual Penal Statistics – SPACE I 2022*, the "Indicator of the average length of remand in custody**, in months (based on the total number of days spent penal institutions)" **was 9.95 months with regard to Hungary in 2021, while the average for all Council of Europe countries was 5.5 months and the median was 3.7 months.**[35]

Thus, **excessive length of pre-trial detentions in general remains a systemic problem in Hungary**, which is also underlined by the fact that according to the 2022 annual report of the Committee of Ministers titled *Supervision of the Execution of Judgments and Decisions of the European Court of Human Rights, **"[o]f the new violations found by the Court in 2022 [with regard to Hungary], most concerned lengthy judicial proceedings or pre-trial detention"**.*[36]

The analysis of the judgments falling under the *X.Y. v. Hungary* group of cases carried out by the HHC in February 2024 (amounting at that time to 25 judgments with altogether 173 individual applicants) also shows that the average length of pre-trial detentions that *ended* by the time the ECtHR rendered its judgments was well over one year, both when looking at all cases and when looking at cases in which the pre-trial detention was first ordered after the new CCP came into force. It is a particularly worrying sign that the average length of pre-trial detentions that were still *ongoing* at the time the ECtHR's judgment was rendered was 994.28 days for pre-trial detentions ordered after the CCP entered into force and 1,055.66 days for all applicants in the group. (See Tables 7 and 8 below.)

[34] Source: *Ügyészségi Statisztikai Tájékoztató – Büntetőjogi szakág. A 2022. évi tevékenység [The Statistical Information Leaflet of the Prosecution – Criminal Field. Activities in 2022]*, https://ugyeszseg.hu/wp-content/uploads/2023/11/buntetojogi-szakag-2022.-ev.pdf, p. 65, Table 64.

[35] *Council of Europe Annual Penal Statistics – SPACE I 2022*, https://wp.unil.ch/space/files/2024/01/240111_SPACE-I_2022_FinalReport.pdf, pp. 121-122, Variable Code 31G

[36] See: https://rm.coe.int/annual-report-2022/1680aad12f, p. 68.

Table 7 – Statistics regarding the cases in the X.Y. v. Hungary group in which the pre-trial detention started only after the CCP came into force

LONGEST -PRE-TRIAL DETENTION ENDED BY THE TIME OF JUDGMENT		**LONGEST PRE-TRIAL DETENTION PENDING AT THE TIME OF JUDGMENT**	
Name:	**László FARKAS**	Name:	**Melinda KOLOMPÁR**
Duration (days; excluding day of arrest):	**1,210**	Duration at the time of judgment (days; excluding day of arrest):	**1,352**
Duration (including day of arrest):	3 years, 3 months and 23 days	Duration (including day of arrest):	More than 3 years, 6 months and 22 days
Case:	BESIROVIC AND OTHERS v. HUNGARY	Case:	SZABBAH AND OTHERS v. HUNGARY
SHORTEST PRE-TRIAL DETENTION ENDED BY THE TIME OF JUDGMENT		**SHORTEST PRE-TRIAL DETENTION PENDING AT THE TIME OF JUDGMENT**	
Name:	**Zsigmond FEHÉR***	Name:	**Norbert REITER-KOVÁCS****
Duration (days; excluding day of arrest):	**10**	Duration at the time of judgment (days; excluding day of arrest):	**640**
Duration (including day of arrest):	11 days	Duration (including day of arrest):	More than 1 year, 7 months and 2 days
Case:	OROSZ AND OTHERS v. HUNGARY	Case:	OROSZ AND OTHERS v. HUNGARY
AVERAGE LENGTH OF PRE-TRIAL DETENTIONS ENDED BY THE TIME OF JUDGMENT (days):		**AVERAGE LENGTH OF PRE-TRIAL DETENTIONS PENDING AT THE TIME OF JUDGMENT (days):**	
681.17		**994.28**	

*Applicant was detained and released several times. The overall duration of his detentions is 992 days (excluding day of arrest).

**Applicant was also detained for an additional 426 days before the CCP came into force. Overall duration of his detentions is more than 1,066 days (excluding days of arrest).

Table 8 – Statistics regarding all the cases in the X.Y. v. Hungary group of cases (pre-trial detentions started after or before the CCP came into force)

LONGEST PRE-TRIAL DETENTION ENDED BY THE TIME OF JUDGMENT		**LONGEST PRE-TRIAL DETENTION PENDING AT THE TIME OF JUDGMENT**	
Name:	**Enes BESIROVIC**	Name:	**Alfréd OLÁH**
Duration (days; excluding day of arrest):	**1,458**	Duration at the time of judgment (days; excluding day of arrest):	**1,899**
Duration (including day of arrest):	3 years, 11 months and 29 days	Duration (including day of arrest):	More than 5 years and 26 days

Case:	BESIROVIC AND OTHERS v. HUNGARY	Case:	CSIKÓS AND OTHERS v. HUNGARY
SHORTEST PRE-TRIAL DETENTION ENDED BY THE TIME OF JUDGMENT		**SHORTEST PRE-TRIAL DETENTION PENDING AT THE TIME OF JUDGMENT**	
Name:	**Alexander KOSAN**	Name:	**Barbara SÁRKÖZI**
Duration (days; excluding day of arrest):	**388**	Duration at the time of judgment (days; excluding day of arrest):	**797**
Duration (including day of arrest):	1 year and 24 days	Duration (including day of arrest):	More than 2 years and 2 days
Case:	FARKAS AND OTHERS v. HUNAGRY	Case:	CSIKÓS AND OTHERS v. HUNGARY
AVERAGE LENGTH OF PRE-TRIAL DETENTIONS ENDED BY THE TIME OF JUDGMENT (days):		**AVERAGE LENGTH OF PRE-TRIAL DETENTIONS PENDING AT THE TIME OF JUDGMENT (days):**	
728.65		**1,055.66**	

4. PROPORTION OF FOREIGN PRE-TRIAL DETAINEES – DATA AND CONTEXT

In the Revised Group Action Plan, the Government claims that the increase in the number of pre-trial detentions after 2019 *"is related to the structure of crime and the personal circumstances and criminal history of the offenders rather than to prosecutorial motions and judicial decisions ignoring Section 2 (3) and Section 271(1) to (2) of the [CCP]. In particular, in the case of the recently prominent crime of human trafficking, in view of the personal circumstances of the perpetrators, coercive measures other than arrest are practically out of the question."* While the Revised Group Action Plan mentions "human trafficking" (*emberkereskedelem*[37]), official statistics (see Table 9 below) and government officials' media statements[38] make it clear that there has been, within the total number of registered offences, an increased proportion of "human smuggling" (*embercsempészés*[39]) cases rather than human trafficking cases, and so the Revised Group Action Plan presumably refers to the latter criminal offence. However, statistical data shows that the increase of pre-trial detentions and the current numbers cannot be attributed solely to human smuggling cases.

Firstly, the ratio of human smuggling cases remains negligible when compared to all registered criminal cases, as shown by Table 9.[40]

[37] Section 192 of the Criminal Code sanctions "any person who sells, purchases, exchanges, or transfers or receives another person as consideration".

[38] See for example the statement of the Secretary of State of the Ministry of Interior according to whom "the detention of foreign smugglers has placed a disproportionate burden on Hungary" at https://hvg.hu/itthon/20231104_1634_embercsempeszt_engedtek_szelnek_a_bortonok_tulzsufoltak_es_nem_eleg_multik_ultik.

[39] Section 353 of the Criminal Code defines human smuggling as providing "aid to another person to cross state borders in violation of the relevant statutory provisions".

[40] See also: para. 1. of the Analysis by the Secretariat regarding the implementation of the *Varga and Others* and *István Gábor Kovács v. Hungary* group of cases (Application nos. 14097/12, 15707/10), CM/Notes/1492/H46-18, 14 March 2024.

Table 9 – Registered cases of human smuggling compared to all crimes registered (2019–2023)[41]

		2019	2020	2021	2022	2023*
Human smuggling	**no.**	90	257	635	1,476	1,548
	%	0.1%	0.2%	0.4%	0.9%	1.0%
No. of all crimes registered		165,648	162,416	154,012	167,774	155,023

**2023 data refers to the period between 1st of January and 4th of December.*

According to the data received from the National Prison Administration, the proportion of foreign pre-trial detainees was indeed still relatively high **on 31 December 2023: out of the 4,227 pre-trial detainees 599, that is, 14.17% were foreign nationals.**[42] (Data for the years 2021 and 2022 in this regard are not available: the National Prison Administration replied to the HHC's related freedom of information request in February 2023 that it did not collect the respective data on foreign pre-trial detainees.[43]) Out of these foreign nationals, 335 were detained in human smuggling cases, that is, 7.92% of all pre-trial detainees were foreign nationals detained in human smuggling cases. Altogether **407 persons were in pre-trial detention for human smuggling at the end of 2023, that is, 9.62% of all pre-trial detainees**. However, it has to be pointed out that **if we deduct the number of all foreign nationals** from the total number of pre-trial detainees, the resulting number (3,628) **is still much higher than the number of pre-trial detainees was at its lowest in the last years, on 31 December 2019** (2,709); and **the same applies if we deduct the number of persons who were in pre-trial detention for human smuggling** (3,820 at the end of 2023 as compared to 2,709 at the end of 2019).

It is true that in the past years, human smuggling was a leading cause of pre-trial detentions. However, as Table 10 below shows, there has been **a sharp decrease in the numbers in 2023**, and by the end of 2023, human smuggling ceased to be the most common cause of pre-trial detention when taking into account all pre-trial detainees.

Table 10 – Number of pre-trial detainees detained in human smuggling cases (2021–2023)[44]

	Total number of pre-trial detainees detained in human smuggling cases	Number of foreign pre-trial detainees detained in human smuggling cases
31 December 2021	1,048 (1st most common offence)	942 (1st most common offence)
30 June 2022	1,134 (1st most common offence)	1,026 (1st most common offence)
31 December 2022	1,518 (1st most common offence)	1,403 (1st most common offence)
30 June 2023	787 (1st most common offence)	701 (1st most common offence)
31 December 2023	407 (5th most common offence)	335 (1st most common offence)

While the Revised Group Action Plan refers to *"the structure of crime and the personal circumstances and criminal history of the offenders"* as a reason for the increase in pre-trial detention numbers, and in particular to the *"prominent crime"* of human smuggling "*in view of the personal circumstances of the perpetrators"*, it **fails to provide any further data or research to substantiate the overly generalizing claim regarding the *"personal circumstances and criminal history of the offenders"***.

[41] See the Crime Statistics System of the Ministry of Interior, BSR.
[42] Source of data in this paragraph: response no. 30500/1043-/2024.ált. issued by the National Prison Administration to the HHC's FOI request on 5 March 2024.
[43] Response no. 30500/157-/2023.ált. of 2 February 2023
[44] Sources: responses no. 30500/157-/2023.ált. of 2 February and no. 202330500/1043-/2024.ált. of 5 March 2024, issued by the National Prison Administration to the HHC's FOI requests.

Finally, criminal procedures and pre-trial measures do not operate in a vacuum. Instead, they are closely connected to and interlinked with various other state policies governments are responsible for. In the present case **the increase in human smuggling offences was the direct result of the deliberate destruction of Hungary's asylum system by the Government**. Since 2015, the Hungarian-Serbian border has been sealed with a fence. Since July 2016, anyone found on the territory of Hungary without a legal basis is to be pushed back to Serbia by the police, in violation of EU law.[45] The number of these push-back measures is growing, and many of these collective expulsions entail violence and/or inhuman or degrading treatment.[46] Since May 2020, it is not possible any more to ask for asylum in the territory of Hungary: instead, declarations of intent shall be submitted at the embassies in Serbia and Ukraine[47] – again in violation of EU law.[48] The restrictive and unlawful border policy, the lack of access to the asylum procedure and the absence of other legal pathways push people into the arms of smugglers and create a growing need for their "services", resulting in an increase in the number of smugglers. Thus, tough border measures do not erase the root cause of the problem, but rather enhance it. Eventually it is the tough stance on migration which pushes vulnerable people into the smugglers arms; it's the policies intended to stop them which motivate them to enter illegally. Such border measures do not reduce the number of illegal border crossings – in fact, they increase them.

5. INADEQUATE DETENTION CONDITIONS

As the HHC demonstrated in its Rule 9(2) communication in the *István Gábor Kovács* and *Varga and Others v. Hungary* group of cases submitted in December 2023,[49] the underuse of non-custodial sanctions and measures in all phases of criminal procedures, including pre-trial detention, caused a new surge in prison population in Hungary, which resulted in **prison overcrowding**, as well as **the highest prison population in 33 years**.[50] This led the Committee of Ministers in March 2024 to noting *"with deep concern the upward trend in prison population with most recently 13 institutions being over 100% capacity"* in relation to the *István Gábor Kovács* and *Varga and Others v. Hungary* group of cases.[51] Thus, **certain Convention violations covered by the *István Gábor Kovács* and *Varga and Others v. Hungary* group of cases and the *X.Y. v. Hungary* group of cases and the implementation of the two groups of judgments are intertwined: carrying out the general measures necessary to implement the judgments in the *X.Y. v. Hungary* group of cases would also contribute to reducing prison population and overcrowding.**

Other **substandard conditions of detention beyond overcrowding** in the Hungarian penitentiaries (e.g. pest infestation, insufficient reintegration activities, the overall ban on physical contact between visitors and detainees constituting a violation of Article 8 of the Convention as established by the ECtHR) that lead to inhuman and degrading punishment remain unresolved, which prompted the Committee of Ministers to call upon the authorities "*to enhance their efforts in improving material conditions"* in penitentiaries in its March 2024 decision.[52] Inadequate detention conditions naturally effect pre-trial detainees as well, and, as pointed out e.g. by Prof. Csongor HERKE, DSc (head of department, Department of Criminal Procedure and Criminalistics at the University of Pécs, Faculty of

[45] Case C-808/18, Judgment of the Court (Grand Chamber), 17 December 2020, ECLI:EU:C:2020:1029
[46] See e.g.: https://helsinki.hu/en/un-sr-rights-of-migrants-pushbacks/, https://helsinki.hu/wp-content/uploads/HHC_UNSR-migration_pushbacks.pdf.
[47] See e.g.: https://helsinki.hu/en/hungary-removes-itself-from-ceas/, https://helsinki.hu/wp-content/uploads/new-Hungarian-asylum-system-HHC-Aug-2020.pdf.
[48] Case C-823/21, Judgment of the Court (Fourth Chamber), 22 June 2023, ECLI:EU:C:2023:504
[49] DH-DD(2024)16, https://hudoc.exec.coe.int/eng?i=DH-DD(2024)16E
[50] See: https://helsinki.hu/en/hungarian-prison-population-reaches-a-33-year-high/.
[51] CM/Del/Dec(2024)1492/H46-18, Point 4.
[52] CM/Del/Dec(2024)1492/H46-18, Point 6.

Law), *"it is the clear opinion of professional literature that* ***those held in pre-trial detention are in much worse circumstances than those serving their final imprisonment sentence****".*[53] In addition, foreign detainees have to face multiple challenges when it comes to communication with the prison staff and fellow inmates, and in terms of exercising their right to interpretation and translation in general.[54]

6. TRAINING OF PROSECUTORS AND JUDGES

While the trainings and awareness-raising activities enumerated by the Revised Group Action Plan are to be welcomed, it should be pointed out that **in some instances the Revised Group Action Plan does not include the number of participants, and there is limited information available on the curriculum/program** of the training and awareness-raising events. This hinders the assessment of the effectiveness of these efforts.

As far as trainings organised for judges are concerned (see paras 27-28. of the Revised Group Action Plan), the National Office for the Judiciary submitted[55] upon the HHC's inquiry that the *"three training courses on the changes of the rules applicable to coercive measures […] targeted specifically for investigating judges […] between 22 November and 13 December 2022"* (para. 28. of the Revised Group Action Plan) was attended by 32 investigating judges. The National Office for the Judiciary was not aware that *"[i]n September 2022, the Agent before ECHR held a training for judges about the infringement found by the ECtHR and the requirements imposed on national authorities"* (para. 27. of the Revised Group Action Plan), but disclosed that a year earlier, between 12 October and 9 November 2021, the Hungarian Academy of Justice organised a training with the title *"The effect of Constitutional Court decisions and ECtHR judgments on the jurisprudence*", which was attended by 88 judges, with 43 of them being investigating judges.

7. RECOMMENDATIONS

For the reasons above, the HHC respectfully recommends the Committee of Ministers **to continue examining the execution of the judgments** in the *X.Y. v. Hungary* group of cases, and **to move the case** from the standard **to the enhanced procedure**.

Furthermore, the HHC respectfully recommends the Committee of Ministers to call on the Government of Hungary to:

- Carry out a **representative and large-scale research into the practice** of authorities (in particular the prosecution) regarding pre-trial coercive measures and related judicial decision-making since the entering into force of the new Code of Criminal Procedure in 2018, or commission an independent research/investigation in this regard;
- Take steps to ensure that motions by the authorities and judicial decision-making on coercive measures **comply with the Convention and ECtHR case-law**;
- Take adequate steps to **decrease the number and proportion of pre-trial detainees** within the total prison population;

[53] Csongor HERKE, A letartóztatás foganatosítása az új büntetőeljárási törvény tükrében [Enforcing Pre-Trial Detention with a View to the New Code of Criminal Procedure], *Börtönügyi Szemle*, 2019, Issue no. 3., pp. 5-16, available at: https://bv.gov.hu/sites/default/files/BSZ-2019-03.pdf.
[54] For further information, see: https://helsinki.hu/en/wp-content/uploads/sites/2/2024/05/HHC_response_to_FRANET_Sr-no-17_Criminal-Detention-in-the-EU_FIN_100524.pdf, pp. 26-27.
[55] Response 2023.OBH.XII.B.4/3. of 23 January 2023

- **Encourage the use of alternative, non-custodial pre-trial coercive measures** as opposed to pre-trial detention, including by securing the necessary infrastructure;
- Conduct further trainings and awareness-raising activities for criminal justice stakeholders on ECtHR-compliant coercive measures and pre-trial decision-making.

Sincerely yours,

András Kristóf Kádár
co-chair
Hungarian Helsinki Committee