

2 August 2024, 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 (conditional release) 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.<sup>1</sup>

## 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* case<sup>2</sup> 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

<sup>1</sup> 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)], 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)] and in July 2023 [DH-DD(2023)958, [https://hudoc.exec.coe.int/?i=DH-DD\(2023\)958E](https://hudoc.exec.coe.int/?i=DH-DD(2023)958E)]

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

whole lifers after serving 40 years of their sentence. The Court examined the conformity of the new procedure with the Convention in the *T.P. and A.T. v. Hungary* case,<sup>3</sup> 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,<sup>4</sup> 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 26 years 1 month 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. Furthermore, the practice of Hungary’s apex court **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 life imprisonment with the possibility of a parole as well.

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## 1. LACK OF REQUIRED LEGAL CHANGES

In its decision issued in September 2023, the Committee of Ministers, “considering notably that by 2025, i.e. 25 years after the imposition of the first ‘whole life sentence’ in Hungary, certain prisoners should already be able to benefit from the required legislative reform, strongly urged the authorities, without further delay and irrespective of the status of the pending constitutional complaints, 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 and 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”.<sup>5</sup> However, to date, despite the above provisions of the decision (and the previous decisions of the Committee of Ministers issued regarding the group of cases in June 2018<sup>6</sup> in September 2022<sup>7</sup>) **none of the shortcomings identified**

<sup>3</sup> Applications nos. 37871/14 and 73986/14, Judgment of 4 October 2016

<sup>4</sup> Applications nos. 52374/15 and 53364/15, 28 October 2021

<sup>5</sup> CM/Del/Dec(2023)1475/H46-17, <https://hudoc.exec.coe.int/?i=004-10897>, Section 6.

<sup>6</sup> CM/Del/Dec(2018)1318/H46-11, <https://hudoc.exec.coe.int/eng?i=004-10897>

<sup>7</sup> 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)

**by the Court in the group of cases have been addressed.** This is clearly evidenced also by the Hungarian Government’s Group Action Plan of 9 July 2024 (hereinafter: Group Action Plan 2024),<sup>8</sup> Section II. of which on general measures is, save for its last sentence, word for word identical to the respective section of the Group Action Plan of 7 July 2023 (hereinafter: Group Action Plan 2023).<sup>9</sup>

Thus, **the Hungarian authorities have not complied with the Committee of Ministers’ decisions with respect to the required general measures.** In particular,

- **no legislative steps have been taken to “align [the Hungarian] legislation with the Court’s case-law in respect of both types of life sentences”;**
- **the Government has not “set up a timeline for the legislative process”,** and
- **the Government has not presented to the Committee of Ministers “a draft legislative proposal** reducing the waiting period for prisoners before they are eligible for release on parole or clemency and 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”.

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. Furthermore, the statement in the Group Action Plan 2023 that “an analysis of comparative and European law on life imprisonment is being prepared by the Ministry of Justice exploring possible legislative solutions” was not followed up and was not repeated by the Group Action Plan 2024. The approach of the Government signals **a clear lack of political will to abandon the concept of whole life sentence and to implement the respective judgments of the Court with regard to both types of life sentences.**

In the Group Action Plan 2024, the Government continues to argue 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”. The HHC explained in detail in its Rule 9(2) communication of July 2023 why this argument is futile in relation to the execution of the Court’s judgments,<sup>10</sup> and in its September 2023 decision the Committee of Ministers made it clear that the Hungarian law should be aligned with the Court’s case-law “without further delay and irrespective of the status of the pending constitutional complaints”. Furthermore, the Group Action Plan 2024 states that a related “proceeding concerning the submission of the Commissioner for Fundamental Rights concerning the interpretation of Article III. (1) of the Fundamental Law [on the prohibition of torture and inhuman or degrading treatment or punishment] is also pending before the Constitutional Court”, which is not correct: the **Constitutional Court** issued a resolution in the respective case on 1 December 2023, **rejecting the submission and refusing to interpret the respective constitutional provision and respond to the questions of the Commissioner for Fundamental Rights related to life imprisonment in merit.**<sup>11</sup>

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<sup>8</sup> DH-DD(2024)797, [https://hudoc.exec.coe.int/?i=DH-DD\(2024\)797E](https://hudoc.exec.coe.int/?i=DH-DD(2024)797E)

<sup>9</sup> 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). The only difference is that the sentence “Until then [i.e. until related constitutional complaints are pending before the Constitutional Court], an analysis of comparative and European law on life imprisonment is being prepared by the Ministry of Justice exploring possible legislative solutions.” was replaced by the sentence “The proceeding concerning the submission of the Commissioner for Fundamental Rights concerning the interpretation of Article III. (1) of the Fundamental Law is also pending before the Constitutional Court.”

<sup>10</sup> In detail, see: DH-DD(2023)958, [https://hudoc.exec.coe.int/?i=DH-DD\(2023\)958E](https://hudoc.exec.coe.int/?i=DH-DD(2023)958E), p. 4.

<sup>11</sup> Resolution 3492/2023. (XII. 1.) AB, available in Hungarian at: <https://alkotmanybirosag.hu/ugyadatlap/?id=1EECE583E5A1638EC125870A002AC370>.

### **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*<sup>12</sup> case (and the subsequent cases in the group concerning whole lifers), and **has not amended the respective legal provisions in a way that would prevent similar rights violations.**

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 procedure<sup>13</sup> 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”.<sup>14</sup>
- 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 [...] to give reasons for the decision, even if it deviates from the recommendation of the [judicial] Clemency Board”.<sup>15</sup>

In the *T.P. and A.T.* case, the Court also voiced concern over the fact that at the time, the Minister of Justice, who needed to countersign any clemency decision under the Fundamental Law, was also not obliged to give reasons (to the defendant concerned or to the public) for the clemency decisions. However, the Minister of Justice shall not countersign clemency decisions anymore as a result of the **13<sup>th</sup> Amendment to the Fundamental Law of Hungary**, in force as of 1 July 2024. This constitutional amendment was initiated by the Government following a scandal in the first half of 2024 over a particular clemency decision by President Katalin Novák, which resulted in the resignation of both the President of the Republic and the former Minister of Justice who countersigned the President’s impugned clemency decision (she resigned from her top candidacy for membership in the European Parliament on the incumbent party’s list of candidates).<sup>16</sup> In addition to removing clemency decisions from the list of presidential decisions for which a countersignature by the Ministry of Justice is necessary,<sup>17</sup> the 13<sup>th</sup> Amendment supplemented the text of the Fundamental Law with a provision saying that a cardinal law (i.e. a law adopted with the two-thirds majority of MPs present) shall define the list of intentional criminal offences committed against children in respect of which the President of the Republic may not exercise his or her right of granting individual clemency.<sup>18</sup> However, **none of**

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<sup>12</sup> Application nos. 37871/14 and 73986/14, Judgment of 4 October 2016

<sup>13</sup> 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.

<sup>14</sup> *T.P. and A.T. v. Hungary*, § 48.

<sup>15</sup> *T.P. and A.T. v. Hungary*, § 49.

<sup>16</sup> See e.g.: <https://telex.hu/english/2024/02/06/katalin-novak-all-clemency-decisions-are-inherently-divisive>, <https://telex.hu/english/2024/02/08/orban-initiates-amending-the-constitution-over-presidential-pardon-case>, <https://telex.hu/english/2024/02/10/katalin-novak-has-resigned>.

<sup>17</sup> See Article 9(3)(n) and 9(5) of the Fundamental Law of Hungary, as in force since 1 July 2024.

<sup>18</sup> Article 9(8) of the Fundamental Law of Hungary, as in force since 1 July 2024.

**these changes to the text of the Fundamental Law remedy in any way any of the shortcomings identified by the Court in the *T.P. and A.T. v. Hungary* case.**

Allegedly as a reaction and follow-up to the scandal mentioned above, in June 2024 the newly elected President of Republic, Tamás Sulyok, issued **Resolution 181/2024. (VII. 18.) KE on the criteria to be applied when exercising the right of individual clemency**.<sup>19</sup> The resolution underlines the discretionary and individual nature of clemency decisions, while providing broadly defined criteria for them. With respect to defendants sentenced to imprisonment in general, the resolution states that according to the *current* President of the Republic, “the granting of a clemency may be considered in cases where there is a permanent or irreversible serious deterioration in the health of the defendant, supported by an expert opinion, or a substantial change in their personal circumstances, which could not have been assessed by the court during the criminal proceedings and which would make it impossible to carry out or continue the execution of the sentence or would cause disproportionate harm to the persons concerned, which would go beyond the nature of the sentence and would no longer serve the purpose of general and specific prevention”.<sup>20</sup> When it comes to a change in the defendants’ personal circumstances, the following shall be assessed, in particular, as a criterion against or in favour of clemency: “the health of the defendant, their family circumstances, including any caring responsibilities, their age, their ability and motivation to work, their financial, income and social situation, their housing conditions, their behaviour after committing the criminal offence, their remorse, the danger the person poses in the future to society, and the reparation of the harm caused by the criminal offence. These circumstances shall be assessed in the light of the nature of the criminal offence and its circumstances, taking into account the sense of justice of the society, and the period of time elapsed since the decision in the case became final.”<sup>21</sup>

While these aspects include some penological considerations as well, **the resolution cannot be considered as a sufficient step towards implementation with regard to any of the shortcomings identified by the Court in the *T.P. and A.T. case*.** Firstly, the resolution is not binding for and can be changed on its own initiative by the next (or even the current) President of the Republic, thus, there is still no “legislation” that would “oblige the President of the Republic to assess whether continued imprisonment is justified on legitimate penological grounds”.<sup>22</sup> Furthermore, it continues to be the case that there is no time-frame in which the President of the Republic must decide on the clemency application, he/she is still not obliged to give reasons for the decision, and the mandatory pardon procedure in the case of whole lifers still shall be conducted ex officio after an excessive 40 years of detention.<sup>23</sup> In addition, the resolution does not mention or refer to the mandatory clemency procedure for whole lifers (as a clemency procedure affecting a special group of defendants), and does not address the issue that whole life sentences and, in certain cases, life sentences handed down by the Hungarian courts violate the international standards Hungary is bound by. Thus, according to the resolution’s text, it is not an aspect to be taken account by the President of the Republic that the defendant asking for clemency is subject to a sentence that violates Convention standards or that he/she has already spent more time in detention without a real prospect of release than what is permissible under the Court’s case-law, even when the violation of Article 3 of the Convention was established by the Court specifically in the case of the defendant asking for clemency.

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<sup>19</sup> Available here in Hungarian: <https://njt.hu/jogszabaly/2024-181-30-76>.

<sup>20</sup> Resolution 181/2024. (VII. 18.) KE, Section 3.

<sup>21</sup> Resolution 181/2024. (VII. 18.) KE, Section 9.

<sup>22</sup> Cf. *T.P. and A.T. v. Hungary*, § 49.

<sup>23</sup> Cf. *T.P. and A.T. v. Hungary*, §§ 48-49.

## **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,<sup>24</sup> 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 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 with regard to life imprisonments with eligibility for release on parole after periods varying between 26 years 1 month and 40 years.

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

## **2. LACK OF ADEQUATE INDIVIDUAL MEASURES**

In its September 2023 decision, the **Committee of Ministers “expressed its deep regret as to the complete lack of information regarding the measures taken or envisaged to remedy the applicants’ individual situation**, who either continue serving life sentences without eligibility for parole which can only be reviewed under the ‘mandatory clemency procedure’, or life sentences with eligibility for parole only after 30 to 40 years”.<sup>25</sup> However, the Group Action Plan 2024 fails to provide any information in this regard. In fact, Section I. b) of the Group Action Plan 2024 on “other” individual measures beyond just satisfaction is word for word identical to the respective part of the Group Action Plan 2023.

The **Committee of Ministers** also “**emphasised that the applicants’ individual situation urgently needs to be brought in line with the Convention** and reiterated again that the individual measures required to bring the violations in their cases to an end are linked to the adoption of general measures”, and “**requested the authorities to confirm whether the applicants’ individual situation could be resolved through a petition for review of their criminal proceedings**”. However, the Government does not provide any such confirmation in the Group Action Plan 2024. Instead, the information included in the Group Action Plan 2024 and the information available to the HHC clearly show that the **individual measures required to bring the violations in the cases of the applicants to an end have not been taken and the applicants’ individual situation currently cannot be resolved through a petition for review of their criminal proceedings.**

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<sup>24</sup> Applications nos. 52374/15 and 53364/15, Judgment of 28 October 2021

<sup>25</sup> CM/Del/Dec(2023)1475/H46-17, <https://hudoc.exec.coe.int/?i=004-10897>, Section 3.

The reason for this is Uniformity Decision no. 3/2015 BJE,<sup>26</sup> issued by Hungary's apex court, the Kúria. As explained in detail in the HHC's Rule 9(2) communication submitted in July 2023,<sup>27</sup> 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 (i.e. the act of sentencing and the direct consequences of sentencing, which are inherent in the sentence imposed) 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.

The lack of legal changes and Uniformity Decision no. 3/2015 BJE result in a situation whereby the whole life sentences of applicants are upheld in the domestic review procedures launched following the Court issuing a judgment in their cases, irrespective of the Court's judgments establishing a violation of the applicants' rights. The HHC does not have access to a full list of review decisions, but is aware of the following relevant review decisions upholding the whole life sentences of applicants of the *László Magyar* group of cases, all referring to Uniformity Decision no. 3/2015 BJE:

- As also presented by the Group Action Plan 2023 and Group Action Plan 2024, the original domestic judgments and so the whole life sentences of both T.P. and A.T. were upheld by the Kúria.
- The whole life sentence of József Bancsók (Application no. 52374/15) was upheld by the Kúria as well in its review decision no. Bfv.I.734/2022/12., issued on 19 September 2023.<sup>28</sup>
- As presented by the HHC in its Rule 9(2) communication submitted in July 2023, according to the information it acquired, the whole life sentences of two applicants in the *Sándor Varga and Others v. Hungary* case were also upheld by the Kúria – see decision no. Bfv.I.288/2022/19. of 13 December 2022 and decision no. Bfv.III.493/2022/9. of 12 January 2023.<sup>29</sup> According to a publicly available constitutional complaint, the same happened in the review procedure of at least one of the further applicants in the *Sándor Varga and Others v. Hungary* case (one of the applicants under Application no. 35530/16) due to decision no. Bfv.II.858/2022/28. of 20 April 2023 of the Kúria.<sup>30</sup>
- The whole life sentences of at least seven of the applicants in the *Coman and Others v. Hungary* case were also upheld by the Kúria in the following review decisions:

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<sup>26</sup> The uniformity decision is available here in Hungarian: <https://www.kuria-birosag.hu/hu/joghat/32015-szamu-bje-hatarozat>. 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>. The HHC's translation is included in its Rule 9(2) communication from July 2023: DH-DD(2023)958, [https://hudoc.exec.coe.int/?i=DH-DD\(2023\)958E](https://hudoc.exec.coe.int/?i=DH-DD(2023)958E), pp. 5-6. Further extracts from the reasoning are included in English in the *Sándor Varga and Others v. Hungary* judgment (§ 20).

<sup>27</sup> DH-DD(2023)958, [https://hudoc.exec.coe.int/?i=DH-DD\(2023\)958E](https://hudoc.exec.coe.int/?i=DH-DD(2023)958E), pp. 5-7.

<sup>28</sup> Available at: <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAr%20K%C3%BAr%20K%C3%BAr&ugyszam=Bfv.734/2022/12&azonosito=413629b2-ac11-4fd5-93c9-7cc68167fdd7>.

<sup>29</sup> Both are available at: <https://eakta.birosag.hu/anonimizalt-hatarozatok> and were attached to the HHC's Rule 9(2) communication submitted in July 2023.

<sup>30</sup> The constitutional complaint is available here: [http://public.mkab.hu/dev/dontesek.nsf/0/b778a39fc43a3f65c1258a23005b1c5b/\\$FILE/IV\\_1658\\_0\\_2023\\_Inditvany\\_anonim.pdf](http://public.mkab.hu/dev/dontesek.nsf/0/b778a39fc43a3f65c1258a23005b1c5b/$FILE/IV_1658_0_2023_Inditvany_anonim.pdf), its summary is available here: <http://public.mkab.hu/dev/dontesek.nsf/0/B778A39FC43A3F65C1258A23005B1C5B?OpenDocument>.

- decision no. Bfv.II.619/2023/8.,<sup>31</sup>
- decision no. Bfv.618/2023/7., issued on 13 February 2024, with regard to applicant Csaba Kabai (Application no. 5882/20);<sup>32</sup>
- decision no. Bfv.II.630/2023/12., issued on 7 March 2024, with regard to applicant Gheorghe Florin Coman (Application no. 49006/18);<sup>33</sup>
- decision no. Bfv.III.611/2023/7., issued on 19 March 2024, with regard to Pál Banya (Application no. 47596/19);<sup>34</sup>
- decision no. Bfv.III.635/2023/7., issued on 19 March 2024, with regard to Mihály Nagy (Application no. 25908/19);<sup>35</sup>
- decision no. Bfv.III.811/2023/9., issued on 26 March 2024, with regard to Metodi Ivanov Georgiev, Application no. 2614/20);<sup>36</sup>
- decision no. Bfv.I.1098/2023/12., issued on 2 July 2024.<sup>37</sup>

Furthermore, the Kúria delivered multiple review decisions upholding the life sentences *with the possibility of parole of applicants in the group of cases as originally handed down by the domestic courts, i.e. disregarding the Court’s judgments and upholding the timeframe when the applicants can be first paroled*. In these decisions, the Kúria also relied on Uniformity Decision no. 3/2015 BJE, arguing that the respective judgments of the Court did not find that the law applied when reaching the final domestic decision violated Article 3 of the Convention, but held that the rules on establishing the possibility of parole were contrary to the Convention, which does not concern the procedure of the courts imposing the sentence or the final domestic decisions. The Kúria concluded that the deficiency identified by the Court cannot be remedied by adjudication, but only by legislation. The HHC does not have access to a full list of relevant review decisions, but is aware of the following review decisions concerning applicants in the group of cases who were sentenced to “simple” life imprisonment:

- The Kúria upheld the life sentences of at least three applicants in the *Blonski and Others v. Hungary* case with the original conditions (i.e. the original parole timeframe), with the following review decisions:
  - decision Bfv.I.468/2023/5., issued on 17 October 2023, with regard to Imre Blonski (Application no. 12152/16);<sup>38</sup>

<sup>31</sup> See the Kúria’s newsletter, issued in April 2024: <https://kuria-birosag.hu/sites/default/files/hirlevel/hirlevel2404.pdf>, pp. 72-78. and at <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAlria&ugyszam=Bfv.619/2023/8&azonosito=994aad1d-1cc4-4e67-bf7b-8e7452ebb2d9>.

<sup>32</sup> Available at: <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAlria&ugyszam=Bfv.618/2023/7&azonosito=f077b5db-2e38-4920-98df-143f0d651420>.

<sup>33</sup> See the Kúria’s newsletter, issued in April 2024: <https://kuria-birosag.hu/sites/default/files/hirlevel/hirlevel2404.pdf>, pp. 72-78. and at <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAlria&ugyszam=Bfv.630/2023/12&azonosito=5065527e-3621-486e-9250-0ab1d52221a1>.

<sup>34</sup> Available at: <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAlria&ugyszam=Bfv.611/2023/7&azonosito=c7e419fa-180c-44eb-8a10-147ba11266b7>.

<sup>35</sup> Available at: <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAlria&ugyszam=Bfv.635/2023/7&azonosito=6e651c33-e1ba-43f4-b6e2-25a41b59015b>.

<sup>36</sup> Available at: <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAlria&ugyszam=Bfv.811/2023/9&azonosito=c7274197-44c1-4a3f-8b4d-9e0ea8fa0dfd>.

<sup>37</sup> Available at: <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAlria&ugyszam=Bfv.1098/2023/12&azonosito=004ce59e-9df8-4272-aa85-7fe3077231e1>.

<sup>38</sup> The Kúria’s decision is available here: <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAlria&ugyszam=Bfv.468/2023/5&azonosito=58aa4985-b4a6-4d68-b752-71852b0fdd13>.



- decision no. Bfv.I.1424/2022/12., issued on 17 October 2023, with regard to Simon Benjamin (Application no. 59530/18);<sup>39</sup>
- decision no. Bfv.I.683/2023/6., issued on 30 January 2024, with regard to Sándor Páva (Application no. 13524/20).<sup>40</sup>
- The Kúria upheld the life sentences of at least nine applicants in the *Horvath and Others v. Hungary* case<sup>41</sup> with the original parole timeframe, with the following review decisions:
  - decision no. Bfv.II.598/2023/7.;<sup>42</sup>
  - decision no. Bfv.I.636/2023/7., issued on 5 March 2024, with regard to István Újfalusi (Application no. 57463/19);<sup>43</sup>
  - decision no. Bfv.III.617/2023/20., issued on 19 March 2024, with regard to István Tintér (Application no. 10615/20);<sup>44</sup>
  - decision no. Bfv.III.641/2023/8., issued on 20 March 2024, with regard to Olivér Szabó (Application no. 6206/20);<sup>45</sup>
  - decision no. Bfv.III.585/2023/12., issued on 20 March 2024, with regard to János Szurdok (Application no. 13518/20) and with regard to another applicant who cannot be identified;<sup>46</sup>
  - decision no. Bfv.II.673/2023/7., issued on 21 March 2024, with regard to P.A. (Application no. 13527/20);<sup>47</sup>
  - decision no. Bfv.III.825/2023/18., issued on 26 March 2024, with regard to Antal Burka (Application no. 14264/20);<sup>48</sup>
  - decision no. Bfv.I.1272/2023/8., issued on 4 June 2024, with regard to Károly Szabó (Application no. 55374/19);<sup>49</sup>
  - decision no. Bfv.I.1208/2023/11., issued on 9 July 2024, with regard to Tibor Kolompár (Application no. 49232/17).<sup>50</sup>

<sup>39</sup> Available at: <https://ekta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAria&ugyszam=Bfv.1424/2022/12&azonosito=f69e056a-f463-4cf4-9806-21fc80ae385f>.

<sup>40</sup> Available at: <https://ekta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAria&ugyszam=Bfv.683/2023/6&azonosito=8676dd03-a6f7-4e30-bd69-94e7915a8275>.

<sup>41</sup> Applications nos. 12143/16 and 11 others, Judgment of 2 March 2023

<sup>42</sup> See the Kúria's newsletter, issued in April 2024: <https://kuria-birosag.hu/sites/default/files/hirlevel/hirlevel2404.pdf>, pp.

69-72. and at <https://ekta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAria&ugyszam=Bfv.598/2023/7&azonosito=d451c7f5-18aa-41bc-b273-87a6b6aeb2f>.

<sup>43</sup> Available at: <https://ekta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAria&ugyszam=Bfv.636/2023/7&azonosito=e7293fe3-b0e3-4a68-99b2-d88ac3142c7a>.

<sup>44</sup> Available at: <https://ekta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAria&ugyszam=Bfv.617/2023/20&azonosito=c2c37035-621e-4ff2-8b6e-cbb9e0ac230b>.

<sup>45</sup> Available at: <https://ekta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAria&ugyszam=Bfv.641/2023/8&azonosito=5c1f2aa4-b649-48ff-9c25-151c72b8f033>.

<sup>46</sup> Available at: <https://ekta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAria&ugyszam=Bfv.585/2023/12&azonosito=bbe82801-f2b6-443a-9b19-0a793974ba6f>.

<sup>47</sup> Available at: <https://ekta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAria&ugyszam=Bfv.673/2023/7&azonosito=1bd11173-8fca-4cdc-a6bb-232dceb8226c>.

<sup>48</sup> Available at: <https://ekta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAria&ugyszam=Bfv.825/2023/18&azonosito=80953bfd-03e1-4bdc-a25a-52bd4d8b174e>.

<sup>49</sup> Available at: <https://ekta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAria&ugyszam=Bfv.1272/2023/8&azonosito=dadb3431-7b0b-467a-8118-86e60b75f2a4>.

<sup>50</sup> Available at: <https://ekta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAria&ugyszam=Bfv.1208/2023/11&azonosito=575ad029-f139-4987-821c-315034a2f4cb>.

In conclusion: the uniformity decision and the review decisions that follow it clearly show that Hungary insists on imposing whole life sentences and life sentences with parole first possible after more than 25 years of detention even if that violates the Convention. Furthermore, individual applicants sentenced to whole life sentence have no chance of being granted the possibility of parole and those sentenced to life imprisonment with parole have no chance of the time when they can first be considered for parole established in a Convention-compliant manner even if the violation of Article 3 of the Convention was established in their very case. Thus, **Uniformity Decision no. 3/2015 BJE and the Kúria’s practice 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.

Finally, the HHC would like to add for context that a Romanian national sentenced to life imprisonment in Hungary informed the HHC that the Ministry of Justice refused his request to transfer the execution of his sentence to Romania, given that in Romania, he might be eligible for parole after 20 years, but in his sentence the Hungarian courts set the earliest possible date for parole in 25 years.

**3. STATISTICAL DATA**

**3.1. Data on the number of affected detainees and parole decisions**

According to data provided by the National Penitentiary Headquarters, the number of detainees serving a whole life sentence or a life sentence with the possibility of parole developed as follows as compared to the last available numbers shared by the HHC in its Rule 9(2) communication in July 2023.

*Table 1 – Number of detainees serving a whole life sentence<sup>51</sup>*

Date	Total number of detainees serving a whole life sentence	Number of detainees serving a whole life sentence on the basis of a final decision
31 December 2022	74	72
30 June 2023	76	73
31 December 2023	79	73
31 March 2024	82	75

*Table 2 – Number of detainees serving a life sentence with the possibility of a parole<sup>52</sup>*

Date	Total number of detainees serving a life sentence	Number of detainees serving a life sentence on the basis of a final decision
31 December 2023	367	364
31 March 2024	368	365

The 365 detainees serving a life sentence based on a final decision on 31 March 2024 will be first eligible for parole as follows:

- 45 detainees (12%) will be eligible for parole after serving 35 years of their sentence,

<sup>51</sup> Source: Response no. 30500/2587-7/2024.ált. of the National Penitentiary Headquarters to the HHC’s freedom of information request, 31 May 2024.

<sup>52</sup> Source: Response no. 30500/3442-4/2024.ált. of the National Penitentiary Headquarters to the HHC’s freedom of information request, 26 July 2024.

- 139 detainees (38%) will be eligible for parole after serving 30 years of their sentence, and
- 79 detainees (22%) will be eligible for parole after serving 25 years of their sentence.

According to the National Penitentiary Headquarters, the above are the three most common parole timeframes set. It did not provide information upon the HHC’s request on the timeframe for being eligible for parole with regard to the remaining 102 detainees who were serving a final life sentence on 31 March 2024. However, it can be concluded even on the basis of the data provided that **a considerable proportion of life sentences currently served violate Convention standards due to the excessive timeframe for parole.**

As far as parole decisions are concerned, data shows that the **number and proportion of paroles granted is very low** in the case of detainees serving a life sentence. (For context, it shall be added that the extent of applying parole as an early release scheme has significantly decreased in the past years in general.<sup>53</sup>)

*Table 3 – Number of parole procedures and paroles granted for detainees serving a life sentence<sup>54</sup>*

Time period	Parole procedures launched the case of detainees serving a life sentence	Number of paroles granted by the court regarding detainees serving a life sentence	Number of paroles rejected by the court regarding detainees serving a life sentence
2023 (whole year)	29 procedures (with regard to 23 detainees)	1	21
2024 (first half)	14 procedures (with regard to 13 detainees)	1	3

The detainee who was granted parole in 2023 was eligible for parole for the first time after serving 25 years of their sentence, while the detainee who was granted parole in 2024 was eligible for parole for the first time after serving 20 years of their sentence (but the data does not show after how many years of detention were they finally granted parole). The National Penitentiary Headquarters did not provide similar information upon the HHC’s request on those detainees who were refused parole.

### **3.2. Data on clemency decisions**

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, up until 2022, as shown by Table 4. In 2023, there was a significant increase in positive clemency decisions, but **in the first half of 2024** (following and allegedly due to the scandal over a particular presidential clemency decision mentioned above) **clemency decisions came to a complete halt.**

<sup>53</sup> See in detail the Rule 9(2) communication submitted by the HHC in the group of cases of *Istvan Gabor Kovacs and Varga and Others v. Hungary* in December 2023: DH-DD(2024)16, [https://hudoc.exec.coe.int/eng?i=DH-DD\(2024\)16E](https://hudoc.exec.coe.int/eng?i=DH-DD(2024)16E), pp. 12-13.

<sup>54</sup> Source: Response no. 30500/3442-4/2024.ált. of the National Penitentiary Headquarters to the HHC’s freedom of information request, 26 July 2024.

Table 4 – Clemency decisions aimed at the reduction or the waiver of a sentence<sup>55</sup>

Year	Clemency granted	Rejection	Number of all clemency decisions	Percentage of clemencies granted as compared to all decisions
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%
2023	40	406	446	8.97%
2024 (1 January – 30 June)	0	0	0	-

As submitted by the HHC in its previous Rule 9(2) communications, **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 Presidents of the Republic in any format**, even upon freedom of information requests.<sup>56</sup>

#### 4. RECOMMENDATIONS

For the reasons above, the HHC respectfully recommends the Committee of Ministers

1. **to continue examining the execution of the judgments** in the *László Magyar v. Hungary* group of cases **under the enhanced procedure**; and
2. **to issue an interim resolution** in the group of cases as foreshadowed by its September 2023 decision if **no tangible progress is achieved** in the implementation of the group of cases.

Furthermore, we respectfully recommend the Committee of Ministers to call on the Government of Hungary to:

3. **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, with a view to the apparent unwillingness of the Hungarian government, legislator and courts to comply with the Court's respective judgments with regard to the general measures necessary to prevent similar violations and resolve the matter through legislation or Convention-compliant jurisprudence.
4. **Establish**, without further delay and in accordance with a clear timetable to be submitted to the Committee of Ministers as a matter of urgency, **a review system for those already sentenced to**

<sup>55</sup> Source: website of the Ministry of Justice,

<https://igazsagugyiinformaciok.kormany.hu/download/0/d4/43000/2002%20janu%C3%A1r%201-2024%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.

<sup>56</sup> 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.).

**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.

5. **Ensure**, without further delay and in accordance with a clear timetable to be submitted to the Committee of Ministers as a matter of urgency, **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.
6. **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.
7. **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.

Sincerely yours,



András Kristóf Kádár  
co-chair  
Hungarian Helsinki Committee