



HUNGARIAN
HELSINKI
COMMITTEE

Response of the Hungarian Helsinki Committee to FRANET Service Request no. 17. – Criminal Detention in the EU: Conditions and Monitoring

Edited, updated version: 6 May 2024

Introduction

The Hungarian penitentiary system has long been characterised by its [notorious overcrowding problem](#). Despite the creation of several thousands of new placements in prisons, which significantly lowered the occupancy levels since the pilot judgment delivered by the European Court of Human Rights in 2015 in the case of *Varga and Others v. Hungary*,¹ Hungarian prisons are still overcrowded because in recent years there has been a prison population surge due to the criminal policy heavily relying on custodial sentences. The Committee of Ministers of the Council of Europe is still following up on the implementation of this pilot judgment.² In 2022, Hungary reached its [highest prison population since its democratic transformation 33 years ago](#). Hungary has the highest prison population rate in the European Union, according to the [most recent data published by Eurostat](#).

Consequently, the country belongs to the Council of Europe Member States with [the highest prison population](#). On 31 December 2022, 19,347 people were incarcerated in Hungary. Between January and June 2023, the prison occupancy rate was an overall average of 106 per cent. On 31 October 2023, 14 prisons operated with an occupancy rate exceeding 100 per cent (see in [detail from p. 3](#)). It is important to note that since 2020, the National Penitentiary Administration (hereinafter: NPA)³ has [discontinued publishing detailed statistical data](#) on the Hungarian prison system, requiring active citizens and NGOs monitoring detention conditions to submit freedom of information requests to obtain the data needed for monitoring. The HHC receives approximately 500 complaints from detainees and their relatives per year by letter, e-mail or on the phone and is frequently contacted by lawyers representing inmates in various legal procedures. Moreover, HHC is

¹ The ECtHR established that overcrowding and substandard prison conditions were constituting a “widespread problem resulting from a malfunctioning of the Hungarian penitentiary system.” *Varga and Others v. Hungary*, *Application nos. 14097/12, 45135/12, 73712/12, 34001/13, 44055/13, and 64586/13*, 10 March 2015

² Please note that the HHC’s lawyers have litigated cases related to the detention conditions and treatment in Hungarian prisons before domestic forums and the European Court of Human Rights (see e.g. the cases *Engel v. Hungary*, *Application no.: 46857/06*, and *Csüllög v. Hungary*, *Application no.: 30042/08*), and three out of the six applicants in the *Varga and Others v. Hungary* case were also represented by HHC’s lawyers. Therefore, the HHC has been closely monitoring the implementation of the *István Gábor Kovács v. Hungary* and the *Varga and Others v. Hungary* judgments by regularly compiling information updates to the Committee of Ministers under the 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.” The present submission heavily relies on the information, data and analyses the HHC provided during the supervision process in recent years [See further details here [DH-DD\(2022\)1384](#); [DH-DD\(2024\)16](#) and [DH-DD\(2024\)288](#)].

³ In Hungarian: Büntetés-végrehajtás Országos Parancsnoksága (BVOP).

a member of a grassroots organisation the "FECSKE Support Network for Detainees and their Families" that consists of former people with lived experience of detention, their family members and professionals including former staff members of the NPA. As a result, even though its prison monitoring programme was terminated, the HHC has access to information on the most recent issues related to detention conditions. This information is supplemented by the results of HHC's freedom of information (hereinafter: FOI) requests and the cases taken by lawyers in the framework of HHC's human rights legal counselling programme.

Please note that due to the lack of data, our response does not contain data regarding police detention facilities, where arrest (up to 72 hours) and a form of pre-trial detention (up to 60 days)⁴ are administered. Furthermore, we did not complete this questionnaire's "NPM assessment" sections in all aspects. In this respect, it is advised to contact the Office of the Commissioner for Fundamental Rights (Hungary's Ombudsperson), within which the National Preventive Mechanism (hereinafter: NPM) of Hungary operates. However, upon responding to some of the questions, we referred to the assessment the NPM provided in their reports. A few subsections of the template have been left unanswered, where the HHC lacks data or information.

Contents

- 1) Cells 3
- 2) Allocation of detainees 7
- 3) Hygiene and sanitary conditions 8
- 4) Nutrition.....11
- 5) Time spent outside the cell and outdoors.....11
- 6) Solitary confinement.....13
- 7) Work and education of detainees to promote social reintegration.....14
- 8) Healthcare.....17
- 9) Prevention of violence and ill-treatment19
- 10) Contact with the outside world20
- 11) Special measures for female detainees.....22
- 12) Special measures for foreign nationals24
- 13) Special measures relating to detention of children and young adults27
- 14) Special measures to protect detainees with disabilities or serious medical conditions.....29
- 15) Specific measures to protect detainees with special needs33
- 16) Specific measures to address radicalisation in prisons34
- 17) Inspections and monitoring35
- 18) Access to remedy35

⁴ According to Section 299(2) of Act XC of 2017 on the Code of Criminal Procedure (CCP), the prosecutor's office may order the arrest to be carried out in police custody if the procedural steps so require, for a maximum of sixty days in total.

1) Cells

- a) Cell space
- b) Access to natural light and fresh air, cell equipment, furniture, and facilities
- c) Video-surveillance of cells
- d) NPM assessment

What is your assessment of cells in detention facilities concerning cell space, access to natural light, fresh air, cell equipment, facilities available to detainees, as well as the availability of video-surveillance of cells?

According to the relevant Ministerial Decree, in Hungarian prison cells a minimum of six cubic metres of airspace and four (or, if the detainee is placed alone, six) square metres of living space shall be provided. When calculating the living space, the area occupied by toilets and washbasins cannot be included in the floor area of the cells, but the area occupied by other furnishings, such as beds or lockers, counts toward the floor area, which suggests that the actual living space available to detainees may be less than the legal minimum.⁵ The total capacity of a penitentiary institution is set based on the aforementioned calculation, meaning that the failure to provide sufficient living space results in prison overcrowding, a long standing issue in Hungary.

Data published by the Government show that in the first half of 2023 until the end of June, the Hungarian prison occupancy rate was at an overall average of 106%.⁶ On 31 October 2023, 14 penitentiaries were operating with an occupancy rate above 100%.

Table 1 – Operational capacity, number of detainees and occupancy rates in Hungarian penitentiaries, 31/10/2023⁷

Penitentiary institution	Operational capacity	No. of detainees	Occupancy rate
Állampusztá National Prison	1 207	1 134	94%
Bács-Kiskun County Remand Prison	223	214	96%
Balassagyarmat Strict and Medium Regime Prison	313	336	107%
Baranya County Remand Prison (Pécs)	184	177	96%
Békés County Remand Prison (Gyula)	107	117	109%
Borsod-Abaúj-Zemplén County Remand Prison (Miskolc)	967	923	95%
Budapest Strict and Medium Regime Prison	1 020	1 064	104%
Central Hospital of the Prison Service		5	-
Juvenile Prison (Tököl)	100	79	79%
Budapest Remand Prison	1 293	1 387	107%
Győr-Moson-Sopron County Remand Prison	165	135	82%
Hajdú-Bihar County Remand Prison	180	185	103%
Heves County Remand Prison (Eger)	143	151	106%

⁵ Section 121 of Minister of Justice Decree 16/2014. (XII. 19.) on the detailed rules for the enforcement of custodial sentences, confinement, pre-trial detention and detention in place of disciplinary fine

⁶ §15 of from Hungary concerning the group of cases of Istvan Gabor Kovacs (Application No. 15707/10) and Varga and Others v. Hungary (Application No. 14097/12), [DH-DD\(2023\)1213](#)

⁷ Source: Response no. 30500/5563-7/2023 issued by the NPA to the HHC's FOI request on 04/12/2023.

Forensic Observation and Mental Institution (IMEI)		254	-
Jász-Nagykun-Szolnok County Remand Prison	130	125	96%
Kalocsa Strict and Medium Regime Prison	277	301	109%
Kiskunhalas National Prison	859	805	94%
Middle-Transdanubian National Prison I. (Baracska)	1 088	1 085	100%
Middle-Transdanubian National Prison II. (Székesfehérvár)	127	118	93%
Márianosztra Strict and Medium Regime Prison	505	528	105%
Pálhalma National Prison	1 332	1 292	97%
Sátoraljaújhely Strict and Medium Regime Prison	299	306	102%
Somogy County Remand Prison (Kaposvár)	134	128	96%
Sopronkőhida Strict and Medium Regime Prison	616	624	101%
Szabolcs-Szatmár-Bereg County Remand Prison	167	204	122%
Szeged Strict and Medium Regime Prison	1 350	1 452	108%
Szombathely National Prison	1 476	1 439	97%
Tiszalök National Prison	1 110	1 163	105%
Tolna County Remand Prison (Szekszárd)	96	85	89%
Tököl National Prison	1 273	1 336	105%
Vác Strict and Medium Regime Prison	646	700	108%
Veszprém County Remand Prison (Veszprém)	512	462	90%
Zala County Remand Prison (Zalaegerszeg)	99	93	94%
TOTAL:	17 998	18 407	102%

This data show that Hungarian prisons are overcrowded again, having reached the highest prison population in 33 years at the end of 2022.⁸ The steady increase is worrying. On 31 December 2022, there were more than 19,347 incarcerated people in Hungary, leaving the prison system at a 107% occupancy rate. The prison population rate in Hungary remains very high by European and regional standards.⁹

The reasons for **Hungarian prison population inflation** based on the HHC's research results¹⁰ are systemic institutional deficits and a lack of professional focus on developing better implementation of alternatives to imprisonment lead to their underuse¹¹ during the trial phase, at sentencing and at the penitentiary judge's decision making regarding whether to apply any form of early release. At the heart of these issues, there is a lack of political will to engage with a restorative/non-custodial centred criminal policy, leading to

⁸ 'Hungarian prison population reaches a 33-year high', available at: <https://helsinki.hu/en/hungarian-prison-population-reaches-a-33-year-high/>

⁹ Aebi, M. F., Cocco, E., & Molnar, L., (2023). *SPACE I - 2022 – Council of Europe Annual Penal Statistics: Prison populations*. Council of Europe and University of Lausanne

¹⁰ Policy brief of HHC for enhancing the use of non-custodial alternatives to imprisonment, available here (in Hungarian): <https://helsinki.hu/szakpolitikai-ajanlasaink-az-alternativ-szankciok-jobb-kihasznaltsaga-erdekeben/>

¹¹ Source: Statistics on prosecution before criminal courts, Office of the Prosecutor General. For this report, we analysed longitudinal statistical data from the reports of 2014, 2016, 2021 and 2022, available online: <http://ugyeszseg.hu/statisztikai-adatok/buntetobirosag-elotti-ugyesz-tevekenyseg/>

insufficient inter-agency cooperation and an underfunded system of social protection, which contributes to the unsuccessful implementation of restorative community sanctions, such as the penalty of community service (*közérdekű munka*)¹² and the measure of reparation work¹³ (*jóvátételi munka*). Detainees' decreased access to rewards has an aggravated effect on early release from imprisonment.¹⁴ The HHC is of the firm professional opinion based on international comparative research results¹⁵ that without political investment, training, inter-agency cooperation, and awareness-raising, it is nearly impossible to escape the spiral of prison overcrowding and inhuman detention conditions.

At the same time, it has been pointed out repeatedly that the expansion of places is a solution that can only temporarily reduce overcrowding.¹⁶ New prison buildings should not be used to increase the number of places but to replace old, outdated buildings.¹⁷ It is widely accepted among practitioners,¹⁸ academia,¹⁹ NGOs²⁰ and international human rights bodies²¹ that developing **sustainable control over prison overcrowding requires a multi-faceted approach involving changes to policies, practices and societal attitudes** towards people who offend. A significant element of this is the promotion of more frequent recourse to community sanctions and measures, and a generally wider use of alternatives to imprisonment.

Insufficient insulation and barriers on cell windows preventing proper ventilation leave prisoners vulnerable to extreme weather conditions. In the winter of 2022, a Government Decree²² stipulated that the buildings of state institutions (including penitentiaries) could be heated only to a maximum of 18 degrees Celsius. The HHC received numerous complaints²³ from prisoners who, in addition to the unbearably low temperatures, reported some cold-related illnesses (such as colds, flu and other respiratory diseases), insufficient quantity of hot water and restrictions on the use of electrical devices. It is important to note that the regulation setting a maximum temperature of 18 degrees Celsius is no longer in force, but the restriction on heat-generating electrical devices is still in force.

¹² Sections 33 (1)(d), 46-49 of the Act C of 2021 on the Criminal Code (hereinafter: Criminal Code)

¹³ Sections 63 (1)(c), 67-68 of the Criminal Code

¹⁴ See further details in the Submission of the HHC in the proceedings of the Committee of Ministers following the enforcement of the cases of István Gábor Kovács and Varga and Others v. Hungary under Rule 9.2 of the Rules of Procedure of the Committee of Ministers, [DH-DD\(2024\)16](#), p. 12

¹⁵ Rodrigues, A. M. – Antunes, M. J. – Fidalgo, S. – Pinto, I. H. – Ishy, K. T.: *Non-custodial sanctions and measures in the member states of the European Union. Comparative Report.* University of Coimbra, 2022.

¹⁶ See for example the latest Committee of Ministers Decision in the supervision process of the execution of the Varga and Others and István Gábor Kovács group v. Hungary (Application Nos. 14097/12, 15707/10), 12-14 March 2024, § 4 [CM/Del/Dec\(2024\)1492/H46-18](#)

¹⁷ Kazai, V. – Ivány, B.: Van még új a nap alatt. (2016). *Fundamentum*, [2\(4\)](#), p. 167.

¹⁸ See for example the article of the former Lieutenant General on the matter, Csóti, A.: A magyar bv. intézetek túltelítettsége, a zsúfoltság csökkentésének útjai. (2015). *Belügyi Szemle*, [63\(11\)](#), pp. 5-16; and Pallo, J.: Egyre jobban éget a seb... – A túlzúfoltság csökkentésének lehetséges útjai. (2015). *Börtönügyi Szemle*, [34\(1\)](#), pp. 18-25.

¹⁹ Rodrigues, A. M. – Antunes, M. J. – Fidalgo, S. – Pinto, I. H. – Ishy, K. T.: *Non-custodial sanctions and measures in the member states of the European Union. Comparative Report.* University of Coimbra, 2022.

²⁰ See for example Penal Reform International's [Ten-Point Plan to Reduce Prison Overcrowding](#).

²¹ See for example § 33, [CPT/Inf \(2004\) 18](#)

²² Government Decree 353/2022 (IX. 19.) on the Operation of Certain Institutions During the State of Danger

²³ <https://helsinki.hu/borton-tapasztalatok-a-hidegrol/>

Considering the latter, mention should also be made to Minister of Interior Decree 6/2023 (II. 21.) of the Minister of Interior on the Different Application of Certain Prison Rules During the State of Danger, which prohibits prisoners from carrying specific electrical devices capable of generating heat (e.g. kettles with a power rating of more than 500 watts or hair dryers with a power rating of more than 700 watts).²⁴ Although not a substitute for heating the building, the detainees were left with no better option than to use these devices to cope with low temperatures. For example, an NPM report²⁵ states: *“At the time of the visit, several detainees indicated that there had been no hot water in the penitentiary for four days before the visit. They, therefore, complained that the kettles they had purchased from the Institute had been confiscated from them, as many had used the kettles to heat water to wash themselves in the cells when, for other reasons, there was no hot water at the penitentiary.”*

No legal provision was in force during the 2023-2024 winter that would restrict the heating of penitentiaries. However, the problem of **insufficient heating during cold weather has long been present**, especially in old or new, light-way constructed facilities. Low temperatures, lack of adequate heating, insufficient hot water, or lack of seasonal clothing have been identified in several previous NPM reports as problems related to detention conditions.²⁶

As detainees report in their inquiries to the HHC, the effect of low temperatures in the winter and extreme heat waves in the summer amount to substandard material conditions. In the case of summer heat waves (when temperatures outside can reach 40 degrees Celsius), in the HHC's experience, **regulation is non-transparent regarding the protection of detainees from extreme temperatures**. It is not clear whether the imposition of a heat alert by the Chief Medical Officer of Hungary automatically applies to prisons. According to the information provided by the NPA,²⁷ while a small number of recently built prison facilities have adequate air conditioning, in the majority of the prison estate not even during extreme heatwaves can the detainees keep a fan in their cells.²⁸ Additionally, the HHC was informed by the NPA that it is not obligatory for all prisons to introduce special measures accommodating to extreme temperatures. Instead, it is in the penitentiary commander's discretion whether or not they apply any such measures to ensure adequate hydration and a healthy environment for detainees. Each penitentiary commander decides within their own discretion whether to apply any possible benefits (e.g. reduction of compulsory wearing of uniform, provision of drinking water during outdoor time, additional measures to enhance the airing of the buildings, etc.). Another problem raised by detainees and confirmed by the NPM's report²⁹ is that in some penitentiaries the bars on the windows of the cells prevent proper ventilation, adding to the extreme temperature.

To preserve the order of the penitentiary and maintain the security of detention, the Penitentiary Code allows the usage of electronic still and moving image and sound

²⁴ Section 4 of Minister of Interior Decree no. 6/2023 (II. 21.) on the Different Application of Certain Prison Rules During the State of Danger

²⁵ Report of the NPM no. [AJB-1682/2023](#).

²⁶ See for example the following reports of the NPM no. [AJB-1298/2023](#), [AJB-1024/2023](#) and [AJB-1152/2023](#).

²⁷ Response no. 30500-17/939/1/2023 issued by the NPA to the HHC's inquiry on 21/07/2023

²⁸ Ibid.

²⁹ Report of the NPM no. [AJB-1023/2023](#)

recording surveillance systems using a closed technical solution system (hereinafter: **CCTV system**).³⁰ CCTV systems can be installed in the common areas used by detainees (including cells), in the courtyard and corridors of the penitentiary, on the external walls and gates of the prison building, in external workplaces administered by the prison service, or if certain requirements are met, in other places (e.g. in transportation vehicles).³¹ The CCTV system can be combined with a facial recognition system.³² However, according to a recent NPM report, detainees alleged that staff members know the exact locations within the penitentiary where there are no cameras installed and use this information to abuse detainees without getting caught.³³

The Penitentiary Code prescribes that **video surveillance** is mandatory **in cells** during security separation, solitary confinement or disciplinary isolation if the detainee is placed alone and if they have previously attempted suicide or committed an act of self-harm against their physical integrity.³⁴ Apart from this, video surveillance of cells is not mandatory, but under the abovementioned rules, the prison service may decide to install CCTV in any cell.

2) Allocation of detainees

- a) Geographical allocation
- b) Allocation within detention facilities
- c) NPM assessment

What is your assessment regarding the allocation of detainees? Do detainees complain about being placed far from their families? Is the allocation of detainees performed in a way that facilitates rehabilitation?

Prison sentences are executed according to the categories based on the degree of custody determined by the court, in the penitentiary institution designated by the penitentiary organisation, preferably nearest to the convicted person's address, on the basis of the law and the Lieutenant General of the NPA's decision.³⁵ Accordingly, the **geographical allocation** of detainees is in the discretion of the NPA. A so-called occupancy-balancing programme where in essence prisoners are transferred from more overcrowded penitentiaries to less overcrowded ones, has been one of the measures taken by the NPA to reduce overcrowding since 2008.³⁶

In the HHC's experience, the **occupancy-balancing programme** often results in distant allocation of detainees from their place of residence.³⁷ Furthermore, there are institutions that are difficult to reach by public transport (for example, Unit III of Szeged Medium and

³⁰ Section 145 (1) e) of the Penitentiary Code and Section 58 of Minister of Justice Decree 16/2014. (XII. 19.) on the detailed rules for the enforcement of custodial sentences, confinement, pre-trial detention and detention in place of disciplinary fine

³¹ Section 150 (1) and (2) of the Penitentiary Code

³² Section 150 (4b) of the Penitentiary Code

³³ Report of the NPM no. [AJB-1024/2023](#), p. 11

³⁴ Section 150 (3) of the Penitentiary Code

³⁵ Section 97(1) of the Penitentiary Code

³⁶ § II/a of the Government Action report in the Varga and Others and István Gábor Kovács group v. Hungary cases (Applications Nos. 14097/12, 15707/10), [DH-DD\(2015\)622](#), 25/03/2015

³⁷ Kovács, P. – Krámer, L. – Szegő, D. (2021) [Keeping in Contact with Detainees in Hungarian Penitentiary Institutions](#). FECSKE, 2020-2021, pp. 9-15

High Security Prison in Nagyfa); therefore, it is difficult for most relatives to get there for visits. Increasing distance can become a problem if a detainee is transferred to another institution located further away. Family members of detainees experience a deterioration of contact when their imprisoned loved ones are transferred far from their place of residence (110-160 km). Long distances also increase travel costs for family members, usually having a negative impact on the relationship; and due to the increased distance, family members are only able to visit detainees less frequently or not at all. This makes contact very difficult. Experience has shown that with less contact there is a greater chance that family relationships will break down, which creates a perceptible barrier to detainees' reintegration (see [10](#)) for further details).

With regards to the **allocation within detention facilities**, as a main rule, during the execution of a custodial sentence

- the persons classified into different categories,
- men and women,
- juveniles and adults,
- soldiers and convicts who are not soldiers,
- smokers and non-smokers,
- inpatients and healthy persons,
- infectious patients and non-infectious patients

shall be separated from each other. The separation shall be carried out in a separate department, a separate part thereof, or in a separate cell or living quarters.³⁸

However, the law provides for a series of exceptions from the above rule. For example, prisoners of categories I and II; prisoners of categories III and IV; prisoners of categories IV and V can be placed together. For the purpose of medical treatment, prisoners of different categories may be accommodated together in the ward, sick room, infection isolation room or in the cell designated for this purpose, and may wait together for medical examination.³⁹

Regardless of their classification, prisoners may be accommodated together in the following special regimes: in the therapeutic unit, the transitional unit, the drug prevention unit, the psychosocial unit, the religious unit, the first-time offenders unit, the elderly unit, both in the cell and in the residential unit. Regardless of the category classification, within the same unit, prisoners may be housed together in the long-sentenced prisoners unit, the juvenile prisoners unit and the mother and child unit.⁴⁰ Smoking and non-smoking inmates may be accommodated together in the ward, the infirmary, the infection isolation room and in the cell designated as such in the house rules, if indoor and outdoor smoking areas are designated for smoking inmates and the inmate's individual security requirements do not preclude him from using such smoking areas on a regular basis.⁴¹

In the HHC's experience due to the overcrowding of prisons, the rules concerning separation can often not be followed.

3) Hygiene and sanitary conditions (note – section 11 contains specific questions concerning female detainees)

³⁸ Section 101(1)-(2) of the Penitentiary Code

³⁹ Section 101(3)-(4) of the Penitentiary Code

⁴⁰ Section 101(5) of the Penitentiary Code

⁴¹ Section 101(7) of the Penitentiary Code

- a) Access to toilets: bad material conditions
- b) Access to showers and warm and running water
- c) Access to sanitary products
- d) Hygienic conditions in cells
- e) NPM assessment

What is your assessment of hygiene and sanitary conditions and access to toilets, showers and sanitary products in detention facilities?

With regards to the rules of **access to toilets**, cells shall have a washbasin with running water and a separate, preferably individually ventilated toilet. The only exception is those cells for inmates who engage in self-destructive or dangerous behaviour. The disciplinary cell shall be equipped with a washbasin and toilet with running water. Running water, baths and toilets may be provided for sanitary purposes in the living quarters on a departmental basis, i.e. not all cells shall have separate toilets and washbasins.⁴² In practice, toilets and sanitary facilities are often in very poor condition: they are often dirty, mouldy, the toilet door is missing or broken, there is no ventilation/extractor, water is standing high in showers and causing fungal infections on detainees' feet.

According to the rules of **access to showers and warm and running water**, in general, inmates shall be provided with a hot water shower at least three times a week. Women and working inmates shall be provided with a hot water shower after work every day. Hot water may be provided to prisoners between regular showers, within the possibilities of the prison, as specified in the schedule. Female convicts shall also be provided with hot water between regular showers.⁴³ However, in the HHC's experience, water temperature is often not adequate, it is often cold, and showers can only take some minutes in practice. Often, water is standing high in showers and causing fungal infections on detainees' feet.⁴⁴

The Penitentiary Code prescribes that detainees must reimburse the costs of washing and cleaning their own clothes and the cost of **sanitary products**, however, prisoners without deposit money must be provided with basic sanitary equipment.⁴⁵ Detainees' contact persons may pay for a package containing toiletries assembled in the shop on the territory of the penitentiary institution.⁴⁶ In the HHC's experience, if a prisoner doesn't have money or contact persons who may assemble a package, the amount of toiletries provided by the institution is so scarce that it amounts to insufficient.

Factors of physical detention conditions other than personal space are largely disregarded in the Hungarian penitentiary system, such as **hygienic conditions**. Bedbugs and other pest infestations are frequent problems in Hungarian prisons. The long-standing problem of bedbug infestations was brought to the attention of the CPT, which visited Hungary in

⁴² Section 120(2)-(3) of the Ministry of Justice Decree no. 16/2014 (XII. 19.) on the detailed rules on the execution of imprisonment, detention, pre-trial detention, and detention as a substitute for fine

⁴³ Section 132(2)-(3) of the Ministry of Justice Decree no. 16/2014 (XII. 19.) on the detailed rules on the execution of imprisonment, detention, pre-trial detention, and detention as a substitute for fine

⁴⁴ Submission of the HHC in the proceedings of the Committee of Ministers following the enforcement of the cases of István Gábor Kovács and Varga and Others v. Hungary under Rule 9.2 of the Rules of Procedure of the Committee of Ministers, [DH-DD\(2022\)1384](#), p. 8

⁴⁵ Section 155(6) of the Penitentiary Code

⁴⁶ Section 176(5) of the Penitentiary Code

2023.⁴⁷ Although the Decree 18/1998 (VI. 3.) of the Minister of Welfare on the epidemiological measures necessary for preventing communicable diseases and epidemics stipulates that pest control is compulsory twice a year in prisons, the HHC receives many complaints about bedbug bites. As of September 2023, bedbugs have been reported by detained clients and their relatives from 20 institutions in total. One client reported bedbug bites comparable to the size of a bank card.⁴⁸

It is important to stress that carrying out pest eradication alone does not always reduce pest infestation. A family member of a detainee sent a public interest report to the relevant authorities on the dire bedbug infestation within the penitentiary her relative was held in. The Government Office responded that the prison had carried out the twice-yearly compulsory pest control but also pointed out: *'During eradication, it is hard to maintain a permanent field of poison on the sprayed surface. The sprayed surface must not be mopped or washed for ten days for effective eradication. However, prisoners do not always adhere to this (the pesticide is water-soluble, which can be contaminated by moisture and loses its effectiveness when mixed with water).'*

Given the prison population data, it is hardly feasible that cells affected by extermination should not be used for ten days after the spray of the insecticide. The presence of detainees in these cells exposes the pesticide to moisture since even the greatest care cannot avoid contact with sweat or other moisture resulting from normal living conditions (e.g. drinking, using a kettle or doing daily cleaning), which can significantly reduce the effectiveness of the extermination.

Therefore, practical experience suggests that the measures employed by the NPA alone cannot control the pest infestation problem in prisons, although it is the duty of the penitentiary that, in addition to complying with legal requirements, the extermination of pests is carried out in accordance with the instructions for use of the insecticide and that insect bites are treated appropriately.⁴⁹ Another frequently arising problem is, that non-smoking detainees are often not placed in non-smoking cells. Several reports NPM monitoring reports describe similar problems in relation to the possible violation of fundamental rights to those that detainees often report to the HHC.⁵⁰ In these reports, poor sanitary conditions are also often mentioned, as well as concerns about cells in poor states of repair and the ongoing bedbug infestation problem. Some of these reports contain photos portraying the poor condition of facilities.⁵¹

One example is the NPM's recent report of the monitoring visit paid in February 2021 to the Márianosztra Maximum and Medium Security Prison. The NPM pointed out that although the severe overcrowding experienced during the 2017 monitoring visit had been eliminated, and some cells had been renovated, other cells "were still in poor condition, and bedbug infection was still present. Concerning the provision of personal hygiene

⁴⁷ The CPT has not published its report on the visit so far. See the [HHC's 2023 submission to the CPT](#) prior to their periodic visit.

⁴⁸ See further details on the bedbug situation here: <https://helsinki.hu/en/bed-bugs-in-hungarian-prisons/>

⁴⁹ See the submission of the HHC in the proceedings of the Committee of Ministers following the enforcement of the cases of István Gábor Kovács and Varga and Others v. Hungary under Rule 9.2 of the Rules of Procedure of the Committee of Ministers, [DH-DD\(2024\)16](#), p. 17

⁵⁰ See for example Report no. [AJB-750/2021](#); Report no. [AJB-1190/2021](#); Report no. [AJB-874-2021](#)

⁵¹ See for example Report no. [AJB-874-2021](#)

conditions, the dilapidated and dirty bathroom raised serious concerns.⁵² The disciplinary cells were in a particularly bad condition. The report concludes that the physical conditions in some of the cells violate the inmates' constitutional rights. The photographs of the problematic cells shown in the report's appendix substantiate this conclusion.

4) Nutrition

- a) Quality and quantity of food
- b) Drinking water
- c) Dietary requirements
- d) NPM assessment

What is your assessment of nutrition standards in detention facilities? Are detainees able to follow their dietary requirements owing to their health or beliefs?

Nutritional requirements are regulated in detail in two different Ministerial Decrees.⁵³ According to law, detainees shall be provided with meals according to the norms based on the nature of the work they are doing, their state of health and age, and even the specific calorie-needs of each detainee group are detailed. Food appropriate to detainees' state of health, within the relevant norms, on the basis of a medical recommendation by a prison doctor shall be provided. Additionally, inmates may request to be supplied with food appropriate to their religion.

In spite of the detailed regulations, the HHC receives numerous complaints from detainees about the quality and quantity of food provided in penitentiary institutions. Moreover, detainees with food allergies and special dietary requirements are in an especially precarious situation and often suffer serious weight loss during their time in prison. Therefore, the HHC provides legal representation to several clients with such issues. One of the HHC's clients for example suffers from severe and multiple allergies for which the prison administration is not able to arrange the food she can eat aside from some oddities such as pork lard (see in [detail at p. 14](#)). Drinking water is generally accessible according to the HHC's experience with the exception of some complaints regarding detainees working outside the penitentiary and outdoors often not provided with enough water in hot weather.

5) Time spent outside the cell and outdoors

- a) Time spent outdoors
- b) Time spent indoors
- c) Recreational facilities
- d) Educational activities
- e) NPM assessment

What is your assessment of adequacy and meaningfulness of the time spent outside the cell?

⁵² The NPM's Report no. [AJB-874/2021](#) about their monitoring visit to Márianosztra Maximum and Medium Security Prison, pp. 6-7. The [English summary of the Report is available here](#).

⁵³ See the Ministry of Interior Decree no. 13/2022 on the professional and nutritional requirements for the provision of food to detainees; See Sections 110(3) and 128 and Annex 6 Ministry of Justice Decree no. 16/2014 (XII. 19.) on the detailed rules on the execution of imprisonment, detention, pre-trial detention, and detention as a substitute for fine

According to the legal provisions,⁵⁴ **detainees are entitled to spending at least one hour outdoors every day** in each detention category. There are five detention categories from low to high security, where I is the minimum and V is the maximum. Each category is associated with different entitlements. III-V category detainees are entitled to the one hour provided as minimum by the law, whereas inmates placed in categories I-II may be entitled to spend one additional hour outdoors but this is regulated by the “House rules” penitentiary institution.⁵⁵ In the HHC’s experience however, most Hungarian prisons struggle to provide even the mandatory one-hour outdoors time to detainees, mostly because of staff shortages (see [7](#)) for further details), therefore, detainees are often discouraged by prison personnel from using their open-air time. Logistical issues are also reported to the HHC: sometimes open air time is scheduled for a time slot that is covered by other activities (work, showering, Skype call to family members). A further problem reported by inmates to the HHC in this regard is that prison yard facilities are poor and rules are strict during open-air time. For example, it is often not possible to sit down during time spent outdoors, there are no sports facilities or equipment, leaving the detainees with nothing to do except for walking around in circles, there is often a lack of facilities to protect the inmates from the rain or sunlight. Additionally, prison yards are typically small, paved and allow only very limited effective movement of prisoners. For pictures of prison yards, see the reports of the NPM.⁵⁶

As regards to the **time spent indoors**, freedom of movement within the institution, i.e. when the cell door must be kept closed, is also defined by law in relation to the detention categories:⁵⁷

- The cell doors of category V prisoners shall be kept locked day and night;
- The cell doors of category IV detainees shall be kept locked at night, while during the day the temporary opening of the cells may be authorised in accordance with the legal provisions applicable to that category;
- The cell doors of category III detainees must be kept locked at night, except, if running water necessary for sanitation and toilets are provided outside the cells, on a departmental basis; during the day, periodic opening may be permitted in accordance with the statutory provisions applicable to the category;
- The doors of living quarters of category I-II detainees must be kept open during the day; however locked at night, except, if running water for sanitation and toilets are provided per department.

In spite of the above detailed regulations, in the HHC’s experience cell doors often tend to be closed even at times when in theory, they should be kept open – this may also be due to the staff shortage in prisons.

The most prevalent **recreational facilities** in Hungarian prisons are gyms. The rules of using the gym⁵⁸ is determined by the detention category to which the detainee is assigned.

⁵⁴ Section 122(ea) of the Penitentiary Code

⁵⁵ Section 34 of the Ministry of Justice Decree no. 16/2014 (XII. 19.) on the detailed rules on the execution of imprisonment, detention, pre-trial detention, and detention as a substitute for fine

⁵⁶ The last pages of the NPM monitoring reports usually contain photographs taken in the penitentiary concerned, see the NPM reports from 2023 here: <https://www.ajbh.hu/en/opcat-jelentesek-2023>

⁵⁷ Section 102 of the Penitentiary Code

⁵⁸ Section 34 of the Ministry of Justice Decree no. 16/2014 (XII. 19.) on the detailed rules on the execution of imprisonment, detention, pre-trial detention, and detention as a substitute for fine

Detainees in the lowest detention category (I) can use the gym for free four times a week. Inmates assigned to the category II can use the gym for free two times a week and an additional two times if they pay for it. Detainees in the third category can only use the gym three times a week but only if they pay for it, while category IV inmates can only use it once a week and they also have to pay. Inmates assigned to the fifth category are not allowed to use the gym at all. In the HHC's experience, staff shortages create difficulties around all logistics-related operations in prisons. Thus, prisoners often cannot access facilities such as the gym because there is an insufficient amount of personnel to accompany them from their living quarters to the facility.

For information on **educational activities**, please refer to [7](#)).

6) Solitary confinement

- a) Placement in solitary confinement
- b) Monitoring of detainees
- c) NPM assessment

What is your assessment of the practice of placing detainees in solitary confinement? Are there any cases of constantly prolonging solitary confinement periods? Is wellbeing of detainees sufficiently monitored during their placement in solitary confinement?

International standards and recommendations caution against the severe and disproportionate risk of serious and irreversible psychological harm that arises from the fifteenth day of solitary confinement. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Committee (CPT) advises that the maximum duration of solitary confinement as a disciplinary measure should not exceed 14 days, even in cases of prolongation or sequential imposition and uninterrupted execution. Similarly, the United Nations Standard Minimum Rules for the Treatment of Prisoners (also known as Nelson Mandela rules) stipulate that prolonged solitary confinement, if it exceeds 15 days, must be prohibited. The UN Special Rapporteur echoes this, asserting that prolonged solitary confinement, in excess of 15 days, should be subject to an absolute prohibition.⁵⁹

A stark contrast exists between the current Hungarian practice of **solitary confinement** and the internationally recognized standards. For instance, the maximum duration of solitary confinement as a disciplinary measure is 25 days for inmates in high-security detention categories (category IV and V), and 20 days for those in the middle category (category III).⁶⁰ Thus, the Hungarian regulation and practice contradicts numerous international minimum standards, including those set by the CPT on solitary confinement.

In Hungary, several solitary confinements may be carried out continuously, but after the maximum period of time that may be imposed on the detainee under the Penitentiary Code has been reached, the enforcement must be suspended for five days.⁶¹

⁵⁹ UN Special Rapporteur on Torture, [A/66/268](#), August 2011, 88. §

⁶⁰ Section 169(1) of the Penitentiary Code

⁶¹ Section 30(2) of Decree 14/2014. (XII. 17.) of the Minister of Justice on the disciplinary liability of detainees

Last but not least, it must be highlighted that the Penitentiary Code contains two other legal provisions that can as well result in the separation of a detainee from other inmates: **safety separation** and **disciplinary isolation**.

- To maintain order and security, Section 145 of the Penitentiary Code allows detainees to be placed in **security separation** for a maximum of ten days, which can be prolonged with an extra ten days. During safety separation, the detainee is under constant supervision and allowed to receive visitors only in a high security booth or through a security device. Disciplinary proceedings are not required for the imposition of security separation.⁶²
- If a disciplinary proceeding is pending against the detainee they may be placed in **disciplinary isolation** if such a measure is justified to ensure a successful investigation. Disciplinary isolation may last up to the duration of the disciplinary proceedings of the first instance but a maximum of twenty days, during which time the detainee may not have contact with the other alleged perpetrators, witnesses and victims. It is not a necessity, but a detainee in disciplinary isolation may be placed alone and, therefore, cannot meet other prisoners who are not connected to the disciplinary offence in any way.⁶³ If the disciplinary proceedings result in a period of solitary confinement, the period of disciplinary segregation does not count towards the period of solitary confinement.⁶⁴ **This means that, in extreme cases, a detainee may be separated from other inmates for up to 45 days in total.**

The law prescribes that before the enforcement of solitary confinement, the detainee must be examined by the penitentiary doctor. Juveniles or those presenting suicidal tendencies must be examined by a psychologist as well.⁶⁵ Such medical examination must be repeated every week. The health of the detainee must also be monitored in between these medical examinations, including by electronic monitoring (CCTV).⁶⁶

If the medical examinations suggest that the detainee's state of health prevents the enforcement or continuation of solitary confinement and the penitentiary doctor recommends doing so, the disciplinary authority shall postpone or interrupt the enforcement. Solitary confinement (or the remaining part of it) is carried out later when the detainee's state of health allows it.⁶⁷

The HHC has no practical experience of whether the medical examinations described above are sufficient in practice to effectively protect the health of prisoners in solitary confinement.

7) Work and education of detainees to promote social reintegration

- d) General measures to promote social reintegration

⁶² Section 146 of the Penitentiary Code

⁶³ Section 13 of Decree 14/2014. (XII. 17.) of the Minister of Justice on the disciplinary liability of detainees

⁶⁴ Section 30(3) of Decree 14/2014. (XII. 17.) of the Minister of Justice on the disciplinary liability of detainees

⁶⁵ Section 169(6) of the Penitentiary Code

⁶⁶ Section 31(1) of Decree 14/2014. (XII. 17.) of the Minister of Justice on the disciplinary liability of detainees

⁶⁷ Section 31(3) of Decree 14/2014. (XII. 17.) of the Minister of Justice on the disciplinary liability of detainees

- e) Access to work
- f) Access to education
- g) NPM assessment

What is your assessment of the availability and usefulness of work and education available to detainees?

The HHC regularly receives complaints from detainees claiming that the **general measures to promote social reintegration** and educational activities operate at low intensity in Hungarian penitentiaries. According to the complaints, there are very few programmes in reality; a lot of them “only exist on paper.” The programmes that actually exist often mostly or completely ignore the individual needs and characteristics of detainees, who practically miss out on getting prepared for their release as a result. These systemic deficiencies contribute to tensions building up between staff members and detainees, and in addition, further intensify the prominent role of the family in successful reintegration, while the preservation of family bonds rely on the penitentiary system to provide sufficient opportunities to keep meaningful contact with relatives.⁶⁸

Reintegration programmes are curtailed by the long-standing and often severe **staff shortages** the penitentiary system faces. Staff shortages affected 19 out of 33 penitentiaries at the end of 2023. On 1 November 2023 9,441 staff members were employed by the penitentiary system all across its operation, including administration, in-house training personnel and management.⁶⁹ This constitutes a staff shortage of 12% when compared to the number of positions necessary to operate the penitentiary system (10,695). NPA data reveals above-average staff shortages in eight individual penitentiaries, between 12-25%. Moreover, data show that severe staff shortages are more likely to occur in larger prisons, and occupancy levels correlate with these data. On 1 November 2023, the most severely understaffed penitentiaries were the following:

Table 2 – The 8 most understaffed penitentiaries as of 1 November 2023⁷⁰

	No. of detainees	Staffing level	Occupancy rate
Budapest Strict and Medium Regime Prison	1,064	78%	104%
Budapest Remand Prison	1,387	80%	107%
Győr-Moson-Sopron County Remand Prison	135	82%	82%
Márianosztra Strict and Medium Regime Prison	528	83%	105%
Szeged Strict and Medium Regime Prison	1,452	88%	108%
Szombathely National Prison	1,439	75%	97%
Tiszalök National Prison	1,163	87%	105%
Tököl National Prison	1,336	84%	105%

The NPM’s prison monitoring reports often highlight serious staff shortages. The NPM corroborates that staff shortages have a detrimental effect on staff-detainee relationships.

⁶⁸ Several NPM reports corroborate similar concerns. For example, in Report no. [AJB-2726/2020](#), the NPM urged to ensure the organisation of compulsory group sessions for prisoners in the therapeutic units of Szeged Strict and Medium Regime Prison.

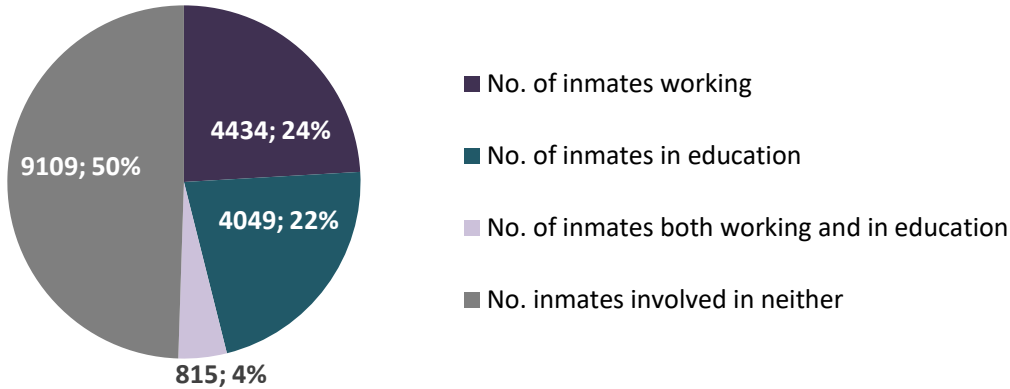
⁶⁹ Source: Response no. 30500/5563-7/2023 issued by the NPA to the HHC’s FOI request on 04/12/2023.

⁷⁰ Source: Response no. 30500/5563-7/2023 issued by the NPA to the HHC’s FOI request on 04/12/2023.

The NPM has repeatedly stated that staff shortages and the resulting overtime creating substandard working conditions for staff members often jeopardises the prohibition of torture and inhuman or degrading treatment. Health and supervisory departments are reported to be the most difficult areas to staff.⁷¹ For example, in the Tiszalök National Prison, in 2020, 10 of the 25 posts in the Health Department were vacant, i.e. 40% of the posts (incl. the head of the department and 3 specialist doctors).⁷² In connection to its 2021 visit to the Állampuszta National Prison, the NPM reported that staff members working as drivers or in the finance department also performed supervisory duties and worked in the detainee wards.⁷³ In 2021, the staff of the Tolna County Penitentiary reported that due to a staff shortage in the security department, the health department staff had to perform security tasks (e.g. clothing search) occasionally. According to NPM, the trust between medical staff and prisoners is negatively affected when medical staff perform security tasks.⁷⁴ According to a recent report on a visit in 2023, recent reorganisations of the prison system have negatively impacted the morale of the staff of the Hajdú-Bihar County Remand Prison. For example, several staff members have been demoted to lower positions, reducing their salaries. According to the staff, restructuring with such adverse effects has never happened before in the history of the prison service.⁷⁵

In the HHC’s experience, **access to work and education** is often low in Hungarian penitentiaries. This is corroborated by data provided by the NPA, which show that on 31 October 2023, the overall proportion of inmates working or participating in education was 51%. It is particularly problematic that in the Juvenile Prison (Tököl) out of 79 detainees, only 35 participated in some kind of education and an additional 7 work (see Section 13 for further details).⁷⁶

Figure 1 – Number of inmates working, in education, both and neither on 31/10/2023⁷⁷



⁷¹ See the following reports of the NPM. It is important to note that written reports of visits typically are not published until years later. Thus, the majority of the most recent reports published in 2023 are for visits in 2020 and after. Written reports on visits in 2023 (with a few exceptions) have yet to be published.

Report [AJB-1152/2023](#); Report [AJB-1056/2023](#); Report [AJB-1028/2023](#); Report [AJB-1024/2023](#); Report [AJB-1224/2023](#); Report [AJB-1030/2023](#); Report [AJB-1151/2023](#); Report [AJB-1682/2023](#).

⁷² NPM Report [AJB-1030/2023](#).

⁷³ NPM Report [AJB-1224/2023](#).

⁷⁴ NPM Report [AJB-1152/2023](#).

⁷⁵ NPM Report [AJB-1682/2023](#).

⁷⁶ Source: Response no. 30500/5563-7/2023 issued by the NPA to the HHC’s FOI request on 04/12/2023.

⁷⁷ Source: Response no. 30500/5563-7/2023 issued by the NPA to the HHC’s FOI request on 04/12/2023.

This is corroborated by the information the HHC receives from detainees, according to which there are very few programmes available; a lot of them 'only exist on paper.' The programmes that actually exist often mostly or completely ignore the individual needs and characteristics of detainees, who practically miss out on getting prepared for their release as a result. These systemic deficiencies intensify the prominent role of the family in successful reintegration, while the preservation of family bonds rely on the penitentiary system to provide sufficient opportunities to keep meaningful contact with relatives, which is hindered by the restrictive contact policy.⁷⁸

8) Healthcare (note – section 11 contains specific questions concerning female detainees)

- a) Access to healthcare
- b) Availability of medical staff
- c) Medical examination upon admission
- d) Preventive care
- e) Specialised care
- f) Treatment of the detainee's choosing
- g) NPM assessment

What is your assessment of access to healthcare in detention and its quality?

8.1. The HHC's assessment

In spite of an existing detailed regulation on medical care of detainees, **the HHC receives many complaints from them about the insufficient healthcare services provided for them.** Most complaints concern the fact that, despite reporting their health problem, they receive **inadequate care or receive it with considerable delay.** In addition, prisons often does not arrange for transfer to an outside medical facility despite medical advice (e.g. in the case of a prisoner suspected of having a stroke). Moreover, the HHC has also received detainees' complaints about **humiliating practices** (e.g. stripping naked for searching) being carried out on sick prisoners in the central prison hospital. There is also a problem that in many cases detainees are transported to outside health facilities in **handcuffs** and shackles, and sometimes the handcuffs are not removed during the examination.

8.2. Relevant law

Upon admission, the detainee is first examined by a specialist nurse, who determines whether they have a contagious disease⁷⁹. If they have any injuries, these are described. If the injury is such that it may have been caused by abuse, they must be taken immediately to a doctor, who will describe in detail what injuries they have.⁸⁰ No later than

⁷⁸ Several NPM reports seem to corroborate similar concerns. For example, in Report no. [AJB-2726/2020](#), the NPM urged to ensure the organisation of compulsory group sessions for prisoners in the therapeutic units of Szeged Strict and Medium Regime Prison.

⁷⁹ Section 3(1) of Decree 8/2014. (XII. 12.) of the Minister of Justice on medical care provided for detainees

⁸⁰ Section 3(7) of Decree 8/2014. (XII. 12.) of the Minister of Justice on medical care provided for detainees

72 hours after admission, the prison doctor must also examine them⁸¹, who will also describe any medical conditions they have had, their general state of health and whether they can work. On admission, the prisoner may ask to be tested for HIV infection. The test is voluntary and cannot be forced.

If the detainee has a **medical problem**, they have the right to be examined by a doctor⁸², but may not choose a doctor. If the detainee has a health problem, he or she can report it to the nurse or the supervisor in an emergency. If the problem is not urgent, it must be reported in writing to the reintegration officer.

Basic health care is free of charge for all detainees in the institution. This means that **the prison doctor will examine the detainees**, give them advice, prescribe medication or refer them to a specialist (e.g. internist, cardiologist) if they deem it necessary.⁸³ Basic care includes emergency dental care, but this is only free of charge in certain cases. Other dental care has to be paid for from the detainee's deposit and the institution is not obliged to provide it.⁸⁴

The detainee is entitled to **preventive medical check-ups** (e.g. lung screening, dental check-up, gynaecological check-up).⁸⁵

Detainees must pay the full cost of **medicines and medical supplies**. If they are entitled to a price subsidy, they must show their entitlement document (social security card, public health insurance card). Until they present it, they must pay the full price.⁸⁶

Pregnant mothers and children in the mother-child unit may receive medicine and medical aids free of charge.⁸⁷ Medicine, medicinal preparations (e.g. ointments) and medical aids may be carried by prisoners only with the permission of the prison doctor. This authorisation must be shown on request. If a prisoner is taking medication that cannot be kept in a cell (e.g. sedatives, sleeping pills), it will be stored in the health department of the prison. The prisoner will then receive his medication at the daily medicine distribution.

No medication or medicinal products may be sent in a package or brought in during the visit, except if the institution is unable to obtain the medicine, therapeutic product or other medication. In such cases, the detainee's contact person may send it in (on the advice of the prison doctor, if the prison commander gives permission).

The medical care of detainees is organised as follows:⁸⁸ Prison doctors are available in all prisons. Anyone who is ill but whose illness is not serious enough to require hospitalisation will be placed in **the medical department of the prison**, on the recommendation of the

⁸¹ Section 3(5) of Decree 8/2014. (XII. 12.) of the Minister of Justice on medical care provided for detainees

⁸² Section 157 of the Penitentiary Code, Section 4 of Decree 8/2014. (XII. 12.) of the Minister of Justice on the on health care for detainees

⁸³ Section 4(1) of Decree 8/2014. (XII. 12.) of the Minister of Justice on medical care provided for detainees

⁸⁴ Section 11 of Decree 8/2014. (XII. 12.) of the Minister of Justice on medical care provided for detainees

⁸⁵ Section 5 of Decree 8/2014. (XII. 12.) of the Minister of Justice on medical care provided for detainees

⁸⁶ Section 3(4) of Decree 8/2014. (XII. 12.) of the Minister of Justice on medical care provided for detainees

⁸⁷ Section 156(1) of the Penitentiary Code

⁸⁸ Sections 160-163 of the Penitentiary Code

prison doctor.⁸⁹ If the prisoner cannot be treated in the institute, the prisoner shall preferably be transferred to the **Central Prison Hospital**,⁹⁰ which is located at the Eastern border of the country to Romania, thus, it is very far from most of the other penitentiary institutions and many detainees' family members.

The detained person must be **transferred to an outpatient department of a hospital** or an outpatient clinic if

- the care is urgent and the loss of time involved in the transport would endanger the health of the detainee;
- their examination and treatment cannot be carried out in the prison establishment;
- cannot be sent to a prison health facility because it is too far away and transport would be expensive,
- or
- the examination and treatment cannot be carried out in the prison medical establishment.
- the extent of his incapacity for work or loss of working capacity can be established in this way;
- the examination and treatment will enable them to recover much faster or to return to work much faster.⁹¹

Prisoners have **the right to refuse health care**,⁹² however, there are situations when they cannot refuse healthcare, and these are: if they pose danger to themselves or others; if their life is in danger because of an accident or illness; if there is an epidemic or if they have a contagious disease.

9) Prevention of violence and ill-treatment

- h) Protection from violence by prison staff
- i) Protection from violence by other detainees
- j) NPM assessment

What is your assessment of the protection of detainees from violence from staff members and other detainees? Do detainees make use of the complaint mechanisms when falling victim to violent behaviour? If so, are these complaints properly investigated?

As the NPM warned in several of its monitoring reports,⁹³ there is a real risk in Hungarian prisons that severe staff shortages might jeopardise the effective prevention of violence both between detainees and by staff members (see [7](#)) for further details).

⁸⁹ Section 8(1) of Decree 8/2014. (XII. 12.) of the Minister of Justice on medical care provided for detainees

⁹⁰ Section 14(1) of Decree 8/2014. (XII. 12.) of the Minister of Justice on medical care provided for detainees

⁹¹ Sections 12(2)-(3), (13) of Decree 8/2014. (XII. 12.) of the Minister of Justice on medical care provided for detainees

⁹² Section 158 of the Penitentiary Code

⁹³ See the following reports of the NPM: Report [AJB-1152/2023](#); Report [AJB-1056/2023](#); Report [AJB-1028/2023](#); Report [AJB-1024/2023](#); Report [AJB-1224/2023](#); Report [AJB-1030/2023](#); Report [AJB-1151/2023](#); Report [AJB-1682/2023](#). It is important to note that written reports of visits typically are not published until years later. Thus, the majority of the most recent reports published in 2023 are for visits in 2020 and after. Written reports on visits in 2023 (with a few exceptions) have yet to be published.

In recent years, both detainees and their relatives have reported systematic and regular serious physical and verbal abuse by guards at the Tiszalök National Prison.⁹⁴ According to the reports, the continuous and recurrent pattern of unjustified violence by a group of guards has been not uncommon. The HHC represents victims of ill-treatment, and there are other complaint procedures pending. The HHC also receives several complaints regarding the Szombathely National Prison about the ill-treatment of prisoners by guards or other staff members.

The information received from the inmates often reflects their (and also their relatives') highly vulnerable situation. Prison staff have an extremely powerful authority that discourages inmates from complaining about the ill treatment by staff and deters them from enforcing their rights, because they are afraid of the potential repercussions and they do not trust in the success of the procedure. In the internal remedy procedures, including the disciplinary procedures, the equality of arms is not guaranteed between the staff and the prisoners, witnesses hardly testify against a staff member, legal representation is practically unavailable, therefore detainees do not have a real chance of receiving justice. The same extreme power imbalance could be detected in the field of alleged ill-treatment committed by prison guards. The HHC receives numerous ill-treatment complaints from prisoners and relatives, but since in almost all cases, no video recording, no medical files and no witness-statements are available, these serious rights violations remain without consequences.

Based on the HHC's information, inmates are in theory aware of the potential internal remedy processes in penitentiary institutions, but these are practically unavailable for them. Furthermore, laws and internal regulations are not or adversely implemented in practice. A blatant example of the latter is that according to the regulations and the official information issued by the NPA,⁹⁵ an inmate may receive a reward – having a strong effect on the possibility of early release – at any time without any limitation concerning its regularity, but in practice inmates are informed that they only can be rewarded once every half a year. (Nevertheless, inmates may receive a disciplinary sanction – strongly hindering the early release – at any time.)

10) Contact with the outside world

- a) Visits
- b) Correspondence
- c) Visits with children
- d) NPM assessment

What is your assessment of the quality and adequacy of contacts with the outside world made available to detainees? Do prison facilities offer appropriate conditions for detainees to be visited by their children?

Visits are subject to unnecessary and disproportionate restrictions in Hungarian penitentiaries. Since 2016 it has been a routine, and since 2017 mandatory, that during the most common form of visits, i.e. "group visits", the prisoners and their visitors can

⁹⁴ See the HHC's [Submission to the CPT for their periodic visit to Hungary](#), March 2023, pp. 10-11

⁹⁵ Source: Letter no. 30500/10487-/2022 by the National Prison Administration, issued on 12 December 2022

only talk to each other under conditions that exclude physical contact, separated by a plastic wall (plexiglas). This is done under supervision, regardless of whether a specific security risk has been established in relation to the prisoner. Visiting **children** are also not exempted from the ban on physical contact **during group visits**, meaning that they **are not allowed to touch their detained parents**. This practice violates the right to respect for private and family life enshrined in the Hungarian Fundamental Law and the European Convention on Human Rights, in particular by applying the restriction in a general manner, virtually to the entire prison population, without an individual assessment.

Moreover, this practice has developed despite the fact that it is not permitted by the provisions of the Penitentiary Code;⁹⁶ it is only an NPA order⁹⁷ that prescribes the general application of the complete physical separation. According to the Hungarian Fundamental Law,⁹⁸ the exercise of fundamental rights may not be constitutionally restricted by a lower level of legislation than the law. Moreover, in the *Takó and Vizszné Zámbo v. Hungary* judgment on 12 October 2023 the European Court of Human Rights (hereinafter: ECtHR) found a violation of Article 8 of the European Convention of Human Rights (hereinafter: ECHR) and established that this practice of the NPA cannot be considered necessary in the absence of any concrete, individual security risk.⁹⁹

As it stands, “family visits” remain the only form of visit in Hungarian prisons where prisoners can have physical contact with their relatives. However, data show¹⁰⁰ that family visits are extremely rare and mostly only allowed for prisoners with small children: in the 11 months between August 2022 and June 2023, only 75 family visits were allowed nationwide, while the prison population was above 19,000, thus, some 0.34% of detainees has access to family visits.¹⁰¹

The measures the NPA has introduced since the *Takó and Vizszné Zámbo v. Hungary* judgment do not comply with the spirit of the ECtHR’s arguments. According to section 10 of Order 7/2024 (14 March) of the NPA,¹⁰² in force since 22 March 2024, “a complete floor-to-ceiling partition shall be used during the visit for prisoners who have received a disciplinary sanction in the year preceding the visit. All forms of physical contact between a prisoner and his/her visitor are prohibited.” The provision thus continues to prohibit all forms of physical contact in general terms, while making the use of plexiglas dependent not on individual security considerations but on the existence of a general condition from the past (disciplinary sanction received in the previous year). In addition, disciplinary sanctions are often a misleading indicator of the security risk posed by visits: prisoners have been sanctioned for such things as dropping a button or greeting a prisoner of the opposite sex while walking.

⁹⁶ Act CCXL of 2013 on the Execution of Punishments, Measures, Certain Coercive Measures and Petty Offence Confinement.

⁹⁷ Order 7/2024. (III. 14.) of the NPA.

⁹⁸ Article 1(3) of the Fundamental Law of Hungary.

⁹⁹ *Takó and Vizszné Zámbo v. Hungary*, Applications nos. [82939/17](#) and [27166/19](#)

¹⁰⁰ Source: Response no. 30500/1347/2023 issued by the NPA to the HHC’s FOI request on 17/03/2023; Response no. 30500/4293/2023 issued by the NPA to the HHC’s FOI request on 04/09/2023

¹⁰¹ Submission of the HHC in the proceedings of the Committee of Ministers following the enforcement of the cases of István Gábor Kovács and Varga and Others v. Hungary under Rule 9.2 of the Rules of Procedure of the Committee of Ministers, [DH-DD\(2024\)16](#), p. 21

¹⁰² Section 10 of Order 7/2024. (III. 14.) of the NPA.

Furthermore, even in the general strict regime where physical contact is prohibited, data show that only a minority of detainees (22-23%) receive visitors at all within one month.

Table 3 – Number of visits, detainees receiving visits and the ratio of detainees receiving visits within the average number of detainees (19,263)¹⁰³

Time period	No. of detainees receiving visit(s)	No. of visits	Ratio of detainees receiving visitors
January 2023	4 192	6 061	22%
February 2023	4 211	6 055	22%
March 2023	4 351	6 240	23%
April 2023	4 289	6 087	22%
May 2023	4 439	6 403	23%
June 2023	4 434	6 492	23%

Thus, data show that the majority of people incarcerated in Hungary are left without any opportunity to have personal contact with their family members.

11) Special measures for female detainees

- e) General conditions of detention for women and girls
- f) Separation from men
- g) Hygiene
- h) Healthcare
- i) Pregnancy and women with babies or young children
- j) NPM assessment

What is your assessment of the special measures provided for women and girls in detention?

As to the **general conditions of detention for women and girls**, the high prison population rate has a negative effect on their detention conditions. Due to the prison population surge, there is a growing strain on capacity within penitentiaries to properly accommodate female inmates. Additionally, Hungary has a very high proportion of incarcerated women in comparison with Council of Europe countries: the median value is 5.1% among Member States,¹⁰⁴ while 8.1% of the Hungarian prison population consisted of female inmates on 31 October 2023. While placement of women had historically been concentrated in a few specialised penitentiaries in Hungary, whereas these days, female detainees are dispersed in 25 prisons. Those penitentiaries where an above-average number of women were accommodated are highlighted in the table below. These seven prisons held 84% of the female prison population while 18 others held the rest of the women, some of them accommodating only very few of them. There is only one prison (Kalocsa Strict and Medium Regime Prison) where the majority of detainees are women.

¹⁰³ Source: Response no. 30500/4293/2023 issued by the NPA to the HHC's FOI request on 04/09/2023.

¹⁰⁴ Aebi, M. F., Cocco, E., & Molnar, L., (2023). SPACE I - 2022 – Council of Europe Annual Penal Statistics: Prison populations. Council of Europe and University of Lausanne, available at: <https://wp.unil.ch/space/space-i/annual-reports/>, p. 3

Table 4 – No. of female detainees in Hungarian prisons¹⁰⁵	
Bács-Kiskun County Remand Prison (Kecskemét)	32
Balassagyarmat Strict and Medium Regime Prison	13
Baranya County Remand Prison (Pécs)	10
Békés County Remand Prison (Gyula)	9
Borsod-Abaúj-Zemplén County Remand Prison (Miskolc)	77
Central Hospital of the Prison Service	2
Budapest Remand Prison	179
Győr-Moson-Sopron County Remand Prison (Győr)	11
Hajdú-Bihar County Remand Prison (Debrecen)	20
Heves County Remand Prison (Eger)	21
Forensic Observation and Mental Intitution (IMEI)	33
Jász-Nagykun-Szolnok County Remand Prison (Szolnok)	15
Kalocsa Strict and Medium Regime Prison	267
Kiskunhalas National Prison	301
Middle-Transdanubian National Prison II. (Székesfehérvár)	12
Pálhalma National Prison	221
Somogy County Remand Prison (Kaposvár)	7
Szabolcs-Szatmár-Bereg County Remand Prison	7
Szeged Strict and Medium Regime Prison	17
Szombathely National Prison	14
Tiszalök National Prison	131
Tolna County Remand Prison (Szekszárd)	4
Tököl National Prison	2
Veszprém County Remand Prison (Veszprém)	76
Zala County Remand Prison (Zalaegerszeg)	2
TOTAL	1 483

Women represent a minority within prison populations globally; they face more significant stigma than men and criminal justice systems routinely overlook their specific needs.¹⁰⁶ In HHC's experience, incarcerated women in Hungary also face an even harsher societal response to their involvement in crime than men and, therefore, have decreased access to support in reintegration.¹⁰⁷ It is doubtful that the penitentiary system can regard their specific needs if there is a lack of proper accommodation suited explicitly for them.

Even though all prisons holding women also accommodate male prisoners, **separation from men** is compulsory¹⁰⁸ and very strictly implemented, which is an added logistical challenge to the already overburdened staff struggling with constant shortages and turnover (see in [7](#)) for further details). It is strictly forbidden for detained women and men to even address each other when their groups pass each other on the premises of the penitentiary. It is taken excessively seriously, which is highlighted by in the case of a HHC lawyer's client who received a disciplinary sanction for saying hello on one occasion to another detainee from the opposite sex – both the man and the woman got reprimanded.

¹⁰⁵ Source: Response no. 30500/5563-7/2023 issued by the NPA to the HHC's FOI request on 04/12/2023

¹⁰⁶ See, for example, Penal Reform International's [short guide to the Bangkok Rules](#)

¹⁰⁷ See, for example the HHC's blogpost on women in detention "[Ott áll az ember egyedül, nincs hova elinduljon, semmije sincs már – nők a börtönben](#)"

¹⁰⁸ Section 101(1)(b) of the Penitentiary Code

A consequence of a sanction in a disciplinary procedure is often that the prison does not support the early release of the inmate, and research shows that in the majority of the cases the penitentiary judge aligns his/her decision with the prison's position.¹⁰⁹

According to the Penitentiary Code,¹¹⁰ basic **hygiene** products must be provided for indigenous convicted people¹¹¹ who have no money on their deposit account. In the experience of the HHC, it is problematic that indigenous women in pre-trial detention are not entitled¹¹² to free basic hygiene products, therefore, it happens that they have little or no access to basic hygienic products.¹¹³

A special **mother-child unit** is operated within the prison system adapted to the special needs of mothers and their children, which is located on the premises of Bács-Kiskun County Remand Prison (Kecskemét). Mothers can stay there together with their babies up to the age of 12 months. Incarcerated mothers can give birth to their children in the Central Hospital at Berettyóújfalu, which lies near to the Eastern border of Hungary with Romania thus quite far from the many parts of the country where the detainees have their families.

12) Special measures for foreign nationals

- a) General measures for foreign nationals
- b) Interpretation and translation
- c) NPM assessment

What is your assessment of measures provided for foreign nationals in detention?

Foreign nationals detained in Hungarian prisons are entitled to contact the consular office of their country and to communicate with its representative.¹¹⁴ If they are held in pre-trial detention, communication between them and the consular officer cannot be supervised by the prison service.¹¹⁵

At the foreign detainees' request, the prison service may provide them with Hungarian language lessons, provided that the necessary financial and other conditions are in place at the penitentiary.¹¹⁶ According to the HHC's experience, such conditions are barely met, rendering these desired but only theoretical options.

When accommodating a foreign detainee, the prison service must ensure as far as possible, that there is at least one cellmate who speaks and understands both Hungarian and the

¹⁰⁹ Solt, Á.: The institution of conditional release in practice in Hungary, 2017, OKRI, available: https://www.okri.hu/images/stories/KT/KT_54_2017/kt54_honlap2.pdf

¹¹⁰ Section 155(6) of the Penitentiary Code

¹¹¹ Sections 131 and 132 of the Ministry of Justice Decree no. 16/2014 (XII. 19.) on the detailed rules on the execution of imprisonment, detention, pre-trial detention, and detention as a substitute for fine

¹¹² Section 194 and Annex VII of the Ministry of Justice Decree no. 16/2014 (XII. 19.) on the detailed rules on the execution of imprisonment, detention, pre-trial detention, and detention as a substitute for fine

¹¹³ See for example <https://www.theguardian.com/world/2024/feb/01/italian-antifascist-ilaria-salis-cell-hungary-crawling-mice-bugs>

¹¹⁴ Section 11 (3) of the Penitentiary Code

¹¹⁵ Section 389 (1) of the Penitentiary Code

¹¹⁶ Section 208 of the Penitentiary Code

language the foreign detainee uses. Foreign detainees who are in conflict with each other on grounds of nationality, ethnicity, nationality or religion may not be housed together.¹¹⁷ The foreign detainee is responsible for the customs and postal charges and other costs of the parcel sent to them.¹¹⁸

On 27 April 2023, the Government adopted an emergency decree (invoking the state of danger ordered with a view to the war in Ukraine)¹¹⁹ prescribing that **foreign detainees convicted of human smuggling** (i.e. the facilitation of illegal entry into the country) and expelled in the judgement (which is mandatory for all foreign smugglers) shall be released.¹²⁰ These detainees are simply released and must leave the country on their own accord within 72 hours. According to media reports, these offenders are transported close to the border and let go.¹²¹ Therefore, the European Commission decided to open an infringement procedure by sending a letter of formal notice to Hungary¹²² for failing to fulfil its obligations under the relevant Council Directive¹²³ to impose effective, proportionate and dissuasive sanctions for the offence of facilitation of unauthorised entry, transit and residence into the EU (i.e. migrant smuggling) and under the Council Framework Decision¹²⁴ that sets rules for criminal penalties regarding these offences. This policy was implemented as a measure to reduce overcrowding, as the Government saw the high number of foreign human smugglers as one of the root cause of overcrowding. The Department for the Execution of Judgments provided the following analysis in its notes to the Committee of Ministers responsible for the supervision of the execution of the ECtHR's judgments refuting this position of then Government:

"The authorities appear to link the increase of prisoners with arrests and convictions for human smuggling and suggest that the measures taken (adoption of decrees) have already resolved the situation. However, it is difficult to see how this could have been the major contributing factor given, as reported by the HHC, the negligible ratio of human smuggling cases compared to all registered criminal cases (1% in December 2023).¹²⁵ Furthermore, whilst it is true that the decrees decreased the ratio of foreign detainees, the overall prison population did not decrease, so they do not appear to have had the positive impact expected."¹²⁶

¹¹⁷ Section 209 of the Penitentiary Code

¹¹⁸ Section 171 of Minister of Justice Decree 16/2014. (XII. 19.) on the detailed rules for the enforcement of custodial sentences, confinement, pre-trial detention and detention in place of disciplinary fine

¹¹⁹ Government Decree 148/2023 (27.IV.)

¹²⁰ See further details in the submission of the HHC in the proceedings of the Committee of Ministers following the enforcement of the cases of István Gábor Kovács and Varga and Others v. Hungary under Rule 9.2 of the Rules of Procedure of the Committee of Ministers, [DH-DD\(2024\)16](#), pp. 15-16

¹²¹ See for example 'Háborognak a magyar rabok amiatt, hogy elengedi a kormány a külföldi embercsempészeket', <https://rtl.hu/hirado/2023/05/19/embercsempeszek-borton-kiengedtek>

¹²² [INFR\(2023\)2095](#)

¹²³ Council Directive [2002/90/EC](#) of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence

¹²⁴ [2002/946/JHA](#): Council framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence

¹²⁵ Ratios over time: 0.1% (2019), 0.2% (2020), 0.4% (2021), 0.9% (2022), 1% (as of 4 December 2023).

¹²⁶ See § 1 of the Analysis by the Secretariat regarding the implementation of the Varga and Others and István Gábor Kovács group v. Hungary cases (Applications Nos. 14097/12, 15707/10), [CM/Notes/1492/H46-18](#), 14/03/2024

A **recent case involving an Italian citizen in pre-trial detention in Hungary** has caught the attention of both the Italian and the European Parliament.¹²⁷ The woman detailed harrowing conditions including cells infested with rats and bedbugs, lack of hygiene, and a lack of urgent medical care.¹²⁸ In addition to this, the fact that the woman was brought to court in handcuffs and chained during the trial of her criminal case also attracted considerable diplomatic and press attention.

The HHC, though not directly involved in the case, has also received several enquiries about the case. Despite the ECtHR's 2015 judgment in *Varga and Others v. Hungary* case on detention conditions, the Hungarian prison population has been steadily increasing again in recent years, resulting in the overcrowding of prison facilities. In addition, the presence of pests and poor hygiene conditions are also identified as systemic problems. Besides overcrowding, several other long-standing issues contribute to the degrading treatment of prisoners in Hungary.¹²⁹ One alarming aspect is the common practice of bringing remand prisoners to court in handcuffs and restraints, a practice that has drawn criticism. However, recent shifts have been noted, with some detainees appearing in court without restraints, possibly indicating a change in this criticized practice.

The costs of **interpretation and translation** relating to the exercise of foreign detainees' rights and obligations in connection with the execution of the custodial sentence are borne by the penitentiary. However, if the detainee requests the assistance of an interpreter in a case not related to the execution of the detention, then the detainee must bear these costs.¹³⁰ As regards to the practical implementation of the provisions on interpretation and translation, the situation is less encouraging. Speaking foreign languages is a developing area in Hungary as according to Eurostat, more than half of the population spoke only one language in 2022.¹³¹ According to multiple speakers from the prison service, as it was said at a conference in 2022,¹³² hiring an interpreter is a costly and slow process and for less widely spoken languages, it may be impossible to find an interpreter at all. At the same conference, the results of an in-house survey were presented by the then-vice commander of the Budapest Remand Prison:¹³³ of the 577 people working in there – to where prisoners sentenced by a foreign court must be placed until the transfer procedure is completed¹³⁴ – , only 125 (22%) had a language certificate and only 39 (7%) regularly used a foreign language. The experience of the HHC shows that the lack of foreign language skills of prison staff permeates the entire prison system.

Furthermore, the **NPM** has addressed the situation of foreign detainees in several monitoring reports.

¹²⁷ Briefing of the European Parliament: [MEPs to debate situation of prisoners in Hungary, including Iliaria Salis](#), 01/02/2024

¹²⁸ Lorenzo Tondo: [Italian antifascist says cell in Hungary crawling with mice and bugs](#). The Guardian. 1st February 2024. (10th May 2024)

¹²⁹ Theodoros Benakis: [Sociologist-criminologist Lili Krámer explains the degrading treatment of prisoners in Hungary](#). European Interest, 14/02/2024.

¹³⁰ Section 210 of the Penitentiary Code

¹³¹ https://ec.europa.eu/eurostat/databrowser/view/edat_aes_l21/default/table?lang=en

¹³² "The increasing number of foreign detainees in Hungarian prisons and related challenges" online conference of the Hungarian Society of Prison Affairs, 15/12/2022

¹³³ Péter Farkas: *Procedures relating to foreign detainees in the practice of the Budapest Remand Prison*, online conference of the Hungarian Society of Prison Affairs, 15/12/2022

¹³⁴ Section 174(2) of Minister of Justice Decree 16/2014. (XII. 19.) on the detailed rules for the enforcement of custodial sentences, confinement, pre-trial detention and detention in place of disciplinary fine

- During its 2023 visit to the Hajdú-Bihar County Remand Prison, the NPM found that foreign detainees complained that they were unable to communicate meaningfully with staff members or even with their fellow detainees because they were placed in a cell with detainees who did not speak their language.¹³⁵
- During its 2021 visit to the Tolna County Remand Prison, foreign detainees said that some of them can communicate in Romanian, English and German with the prisons staff. However, there were others who could only communicate with the prison staff "with their hands and feet".¹³⁶
- During its 2019 visit to Budapest Strict and Medium Regime Prison, the NPM found that one of the detainees, a foreign national, was wearing a painkiller patch. They said that they did not really know what was happening to him during the transfer to the hospital, because he could not communicate with the prison staff.¹³⁷

In all the aforementioned reports, the NPM called for the prison commanders to take measures to improve communication between foreign detainees and staff members, as it is in a breach with the prohibition of inhuman and degrading treatment, if foreign detainees are unable to communicate meaningfully with staff members and/or fellow inmates.

13) Special measures relating to detention of children and young adults/juvenile detention regime

- d) Age groups
- e) General measures for detained children and young adults
- f) Separation from adults
- g) NPM assessment

What is your assessment of measures provided for children and young detainees? Are they aimed at protection, education, and rehabilitation rather than punishment?

The Act C of 2012 on the Criminal Code (hereinafter: Criminal Code) considers youth in conflict with the law **between the ages of 12 and 18 to be juveniles**.¹³⁸ Special provisions for juvenile offenders with regard to their age and the primacy of the purpose, correctional rules and reintegration in their sanctions are contained by the Criminal Code, the Code of Criminal Procedure and the Penitentiary Code.¹³⁹ Custodial sanctions for juvenile offenders can be carried out either in reformatory institutions or in juvenile prisons, the former being a protective-preventive measure and the latter enforcing the penalty of imprisonment with special rules for juveniles, as opposed to imprisonment for adults. Between the ages of 12 and 14, the court can only use placement in a reformatory as a custodial sanction; between the ages of 14 and 18, the court shall order the child in conflict with the law to be placed in a reformatory if their effective education so requires, as assessed and decided by the court at its discretion.¹⁴⁰ Juveniles may be detained in both prisons and reformatories until the age of 21. However, if the defendant has reached the age of 20 at the time of the court's final decision, they may not be placed in a reformatory. Aftercare placement should be provided at the written request of the juvenile in

¹³⁵ Section 2.4 of OPCAT NPM report no. [AJB-1682/2023](#).

¹³⁶ Section 2.6 of OPCAT NPM report no. [AJB-1152/2023](#).

¹³⁷ Section 2.3.5 of OPCAT NPM report no. [AJB-1053/2023](#).

¹³⁸ Section 105(1) of the Criminal Code

¹³⁹ Lévy, M. 'Youth Justice in Hungary During the 20th and 21st Centuries', *Oxford Handbook Topics in Criminology and Criminal Justice* (2012; online edn, Oxford Academic, 2 June 2014).

¹⁴⁰ Sections 108 and 120(1) of the Criminal Code

reformatories up to the age of 24.¹⁴¹ Aftercare placement shall be available for those who cannot return to their families and have not obtained housing and a stable living, or for those who wish to complete their studies within the framework of the educational or training programme of the reformatory institution.¹⁴²

Children in conflict with the law who are placed in **reformatories are completely separated from adult offenders**. There are five reformatories in Hungary. They are multi-disciplinary institutions at the intersection of education, child welfare and corrections, focusing on the application of child protection and crime prevention measure rather than on the penal element of imposing a sanction. Thus, reformatories are not under the command of the penitentiary administration (NPA), but are organised within the state welfare system for child protection. Reformatories are regulated and supervised by the minister responsible for the protection of children and young people.¹⁴³ The methodological supervision of the activities of reformatories is carried out by the Directorate-General for Social Affairs and Child Protection.¹⁴⁴ In addition, Decree 1/2015. (I. 14.) of the Minister of Human Capacities on the Operation of Reformatories stipulates that reformatories shall provide full sustenance, including care, nurture, supervision, education, training and work as a service to the juveniles placed there.¹⁴⁵

Juvenile prisons operate under special rules within the penitentiary system under the command of the NPA. **Juveniles shall be held** either in **a separate penitentiary** or in a separate part of an adult penitentiary; adult prisoners may be placed in juvenile prisons only for the purposes of the operation of the institution.¹⁴⁶ At the end of October, 148 juveniles were held in Hungarian prisons.¹⁴⁷ According to its website, the NPA operates three penitentiaries that can accommodate juveniles, all of which share their premises with an adult prison.¹⁴⁸ Regarding **activities, education and work training**, there is a significant difference between juvenile prisons and reformatories. In prisons, educational and reintegration activities are carried out at a very low intensity, as shown by Figure 2, which is also confirmed by the latest NPM report with respect to the Tököl Juvenile Prison.¹⁴⁹ While staff turnover and overtime are problems in reformatories, several NPM reports attest to the good quality of education, work training and meaningful leisure activities that children in conflict with the law receive there.¹⁵⁰

¹⁴¹ Section 66/Q(1) of the Act XXXI of 1997 on the protection of children and guardianship administration (hereinafter: Child Protection Act);

¹⁴² Section 384 of the Penitentiary Code

¹⁴³ Section 345(1) of the Penitentiary Code

¹⁴⁴ Section 4(2)(a) and Annex 1 of the Government Decree 316/2012. (XI. 13.) on the General Directorate of Social Affairs and Child Protection

¹⁴⁵ Section 15(5) of the Child Protection Act; Section 3(1) of the Decree 1/2015. (I. 14.) of the Minister of Human Capacities; Section 350(5)(6) of the Penitentiary Code

¹⁴⁶ Section 192(2) of the penitentiary Code

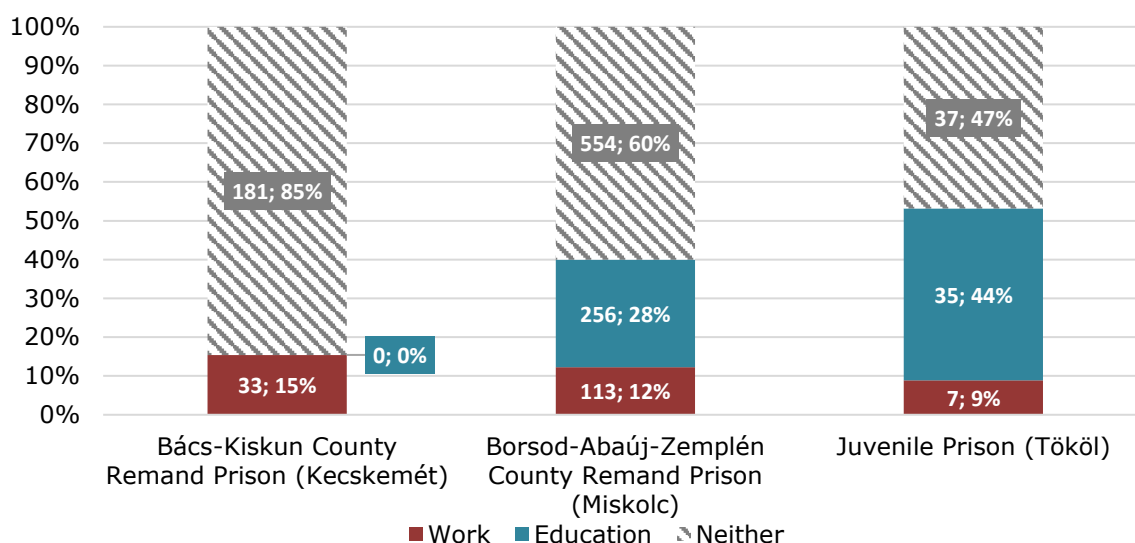
¹⁴⁷ Response no. 30500/5563-7/2023 issued by the NPA to the HHC's FOI request on 04/12/2023.

¹⁴⁸ <https://bv.gov.hu/hu/intezetek>

¹⁴⁹ Report no. [AJB-685/2017](#), pp. 15-21

¹⁵⁰ See for example Report no. [AJB-1356/2023](#), pp. 1 & 15-18 & 20-23; Report no. [AJB-2799/2020](#), pp. 10-16; Report no. [AJB-2569/2020](#) pp. 8-9 & 13-14

Figure 2 – Number of inmates working, in education, and neither in penitentiaries accommodating juveniles in addition to adults on 31/10/2023¹⁵¹



At the same time according to the NPM’s reports,¹⁵² reformatories involve the vast majority of resident children in their educational and rehabilitative programmes. Material conditions seem more favourable there, for example occupancy rates are significantly lower than in penitentiaries. In terms of detention conditions, the NPM considered it a rather positive trend that the number of juvenile offenders in prisons has been radically reduced.¹⁵³

It is also important to note that since 2010 the Government has not considered it necessary to maintain a Ministry of Education or a Ministry of Welfare, Child and Youth Protection. In 2022, the Ministry of Human Capacities, which was previously responsible for welfare and child protection services, was “reorganised” into the Ministry of Interior.¹⁵⁴ As a result, from 2022, the Minister of Interior currently has regulatory powers over child protection and social policy, including reformatories, as well as law enforcement and the penitentiary administration, including juvenile prisons.¹⁵⁵ It is a question whether the child protection and prevention focus of the reformatory system, which has a long tradition in Hungary will be still preserved in this regulatory environment.

14) Special measures to protect detainees with disabilities or serious medical conditions

- a) Care in detention
- b) Continuity of care
- c) Reasonable accommodation and accessibility
- d) NPM assessment

¹⁵¹ Source: Response no. 30500/5563-7/2023 issued by the NPA to the HHC’s FOI request on 04/12/2023.

¹⁵² Report no. [AJB-1356/2023](#), pp. 1 & 15-18 & 20-23; Report no. [AJB-755/2023](#) pp. 19-21; Report no. [AJB-2799/2020](#), pp. 10-16

¹⁵³ Report no. [AJB-1356/2023](#), pp. 10.

¹⁵⁴ See Act II of 2022 on the List of Ministries of Hungary

¹⁵⁵ Section 66(1) Point 2, 27 and 30 of the Government Decree 182/2022. (V. 24.) on the duties and powers of the members of the Government

What is your assessment of measures provided for detainees with disabilities or serious medical conditions – such as mental health related medical conditions? Are the measures in place adequate to ensure effective protection?

Individualised **treatment and care of detainees with a variety of special needs** (including those with disabilities or addictions, those who are ostracised or otherwise unable to care for themselves) are undoubtedly desirable goals in the Hungarian prison system. In the experience of the HHC, however, translating these goals into practice often faces obstacles. One such example is that, according to the Petty Offence Act, disabled persons shall not be subjected to petty offence detention (such custodial measure is also executed in penitentiaries).¹⁵⁶ Even so, the HHC has several clients with disabilities who have been detained under the petty offence procedure without sufficient legal grounds. For example, the HHC's 20-year-old client with mental disabilities was repeatedly fined for littering and other similar petty offences and since he did not pay the fines, he was subjected to unlawful petty offence detention for a total of 71 days. In the HHC's view, there is a legal hiatus in these cases: the court often transforms petty offence fines into confinement without the presence of the offender, and thus the information regarding their disability remains unknown. Regardless of the fact that the Petty Offence Act prohibits the application of petty offence confinement in the case of an offender with a disability, the Penitentiary Code does not contain the apparent disability of the offender as a reason for refusing to admit a person to a penitentiary institution.¹⁵⁷

In the HHC's view, the legal hiatus relating to petty offence detention and confinement of people with disabilities has still not been addressed by the legislator. As a result, (i) it remains common for the court to impose petty offence detention or to convert a previously imposed fine into detention without the personal presence of the offender, and (ii) the prison is still obliged to accommodate persons with disabilities who have been unlawfully sentenced to petty offence detention, as there is no legal mandate to refuse to accommodate such persons. Once a person with a disability who has been unlawfully detained had been admitted to the penitentiary, releasing them is typically a time-consuming and labour-intensive process for bureaucratic reasons, even for a competent lawyer.¹⁵⁸

An HHC client was detained because of committing a petty offence and failing to pay the fine.¹⁵⁹ The client was under guardianship. He brought this fact to the attention of the prison, which took no action to release him. Upon the request of the client's partner an HHC lawyer contacted via phone and wrote 8 official letters within 7 days to the prison administration, to the prosecution supervising the execution of the sentence and to the guardian in order to have the client released. First, the prosecution service claimed that although the client was under full guardianship, he might not be disabled. Furthermore, the prison service refused to take into account the new psychiatric report that had been

¹⁵⁶ Section 10(a) of the Act II of 2012 on Petty Offence, the Petty Offence Procedure and the Petty Offence Registry (Petty Offence Act)

¹⁵⁷ Section 90 of the Penitentiary Code

¹⁵⁸ It is also worth noting that in such case, turning to the Commissioner for Fundamental Rights does not appear to be effective either. A detainee who has been held in petty offence detention despite their disability, has yet to receive a response since four years and three months for their complaint from the Commissioner for Fundamental Rights. See more here:

<https://www.valaszoltekozmaakos.hu/ugyek/jogszabalyellenesen-fogvatartott-fogyatekossaggal-elok-ugye-helsinki>

¹⁵⁹ See more in Hungarian at "[A Helsinki Bizottság közbelépése kellett ahhoz, hogy kiengedjenek a börtönből egy fogyatékos embert](#)".

issued in another procedure raising GDPR claims. Finally, as a result of the intensive advocacy work, the client was released after 7 days of unlawful detention.

Another example is the above mentioned staff shortages, which can only be measured in quantitative terms in relation to the total number of centrally defined posts and the vacancy of such posts. A further hypothetical issue, however, is that even if the centrally defined total number of posts were filled, which is not the case (see [7](#)) for further details), it is not certain that there would be sufficient and appropriately qualified staff to meet the defined targets. Furthermore, there is no publicly available information to suggest that training programmes are in place for staff to deal with detainees with special needs. Additionally, upon requesting the number of staff disaggregated by their specialties, the NPA claims that this information is not available to them. An example to highlight the likely severe shortages on specialised staff is that in 2023, a prison psychologist was heard as a witness in a court case for an HHC client. According to them, there are about 250 prisoners per prison psychologist in the specific prison. In previous years, the number was even higher. They said that nearly half of the detainees in the penitentiary are to be considered psychologically vulnerable.

The Forensic Observation and Mental Institution (IMEI) where **detainees with severe psychosocial disabilities** are held cannot provide a complex therapeutic approach because the current prison system employs an extremely security-centred approach that overrides all other considerations.¹⁶⁰ Detainees with psychosocial disabilities are administered pharmacotherapy, but other therapeutic activities in the institution are severely restricted. For example, in the case of a client of the HHC, IMEI submitted in a court case documentation describing three months of “treatment” the client had received in the institution. The documentation shows that besides medication and a weekly conversation with a psychologist, no therapeutic activities were offered to the client.

The NPM conducted its last visit to the IMEI in 2016,¹⁶¹ and they had several serious concerns regarding the staff shortage and overcrowding. According to the NPM’s report at the time of their visit, 230 patients were placed in IMEI,¹⁶² while the total number of staff was 178.¹⁶³ Since then, the staffing situation has become even worse. By August 2022, the number of detainees had increased to around 270,¹⁶⁴ while the total number of staff had decreased to 158.¹⁶⁵ The increase in the number of detainees placed in the institution raised serious concerns of overcrowding. In 2016, the NPM reported that rooms and cells were, in general, large and overcrowded, while in fact, the number of detainees was significantly lower (15%) than in 2022, while the number of available places remained the same, at 311.¹⁶⁶

¹⁶⁰ https://helsinki.hu/en/wp-content/uploads/sites/2/2022/11/HHC_Varga_Rule_9_FINAL_221122.pdf, pp. 13-15.

¹⁶¹ Report no. [AJB-766/2017](#) in Hungarian and its [Executive Summary](#) in English

¹⁶² Report no. [AJB-766/2017](#), p. 12.

¹⁶³ Report no. [AJB-766/2017](#), p. 21-22.

¹⁶⁴ Source: Response no. 30500/7297-10/2022 issued by the NPA to the HHC’s FOI request on 29/08/2022.

¹⁶⁵ Source: Response no. 30500/7902-/2022 issued by the NPA to Borbála Ivány’s FOI request on 26/09/2022.

¹⁶⁶ Report no. [AJB-766/2017](#), p. 7.

And IMEI’s Deed of Operation and Organisation, p. 4. here:

https://bv.gov.hu/sites/default/files/imei_szmsz_jovahagyott_2022.pdf

Overcrowding and staff shortages have a detrimental impact on both therapeutic work and the treatment of the inmates/patients. For example, the NPM pointed out that “the visiting delegation experienced cases when the personnel demonstrated derogatory, disdainful behaviour towards the patients. The term ‘mentally retarded’, often used by the staff and the management, is stigmatizing.”¹⁶⁷ The NPM also criticised that “the documentation of various means of restraint and restrictive measures was incomplete, and the competent authorities had not been notified thereof.”¹⁶⁸

Patients are allowed weekly visits, but as the general restrictive rules of penitentiaries are also implemented in IMEI as well, high plexiglass walls have also been installed.¹⁶⁹ Visits are conducted with total physical separation between visitors and detainees/patients. Additionally, according to the NPM, “patients live in an extremely unstimulating environment, practically no leisure activities were organised for them.”¹⁷⁰ There is an insufficient amount of in-house programmes, only few patients participate in work activities for a few hours a week (without any occupational therapy content), there is no provision for participation in public or higher education, and socio-therapy, psychotherapy and psychoeducation groups are only occasional.¹⁷¹ There is no individualisation or specialisation in the IMEI as in the penitentiary institutions, the only criterion of separation being gender.¹⁷² Detainees in IMEI are not separated on the basis of the nature of the offence, their mental disorder (e.g. psychotic disorders from intellectual disabilities), age, comorbid substance use or recidivism, and even pre-trial detainees awaiting sentencing are in the same ward as the patients in mandatory psychiatric treatment.¹⁷³

Finally, after seven years without a monitoring visit, the IMEI has received the CPT’s monitoring delegation in May 2023.¹⁷⁴ On 5 December 2023 the NPA reported on its website that the IMEI organised a professional conference to summarise the results of their work towards increasing the number of terminations of compulsory treatment.¹⁷⁵

With regards to **reasonable accommodation**, the HHC’s practical experience shows that it is not ensured that all people with disabilities are accommodated in the appropriate accessible cell, which indicates that the capacity of barrier-free cells needs to be improved. One HHC client has been blind practically since his birth. He was detained in one of the most recently constructed prisons (National Penitentiary Institution in Tiszalök) for 1 year and 9 months from 2019. With the help of the HHC, he sued the prison because he was being treated in exactly the same way as any other detainee. The first instance court decision stated that he was accommodated in an average cell and had the same daily routine and obligations as the others. As a result of this he could not move, shop, shower,

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.

¹⁶⁹ See: Bacskák, D. – Krámer, L.: “Punishment-therapy” – Chances of Psycho-rehabilitation for Mentally Disordered Offenders Under Forced Medical Treatment (in Hungarian), *Lege Artis Medicinae* 2020; 30(1-2): 67-74., here: <https://elitmed.hu/kiadvanyaink/lege-artis-medicinae/buntetesterapia-kenyszergyogykezeles-alatt-allo-betegek-pszichorehabilitacios-lehetosegei-magyarorszagon> p. 71.

¹⁷⁰ Ombudsperson English IMEI Report, p. 1.

¹⁷¹ Report no. AJB-766/2017, p. 30-32.

¹⁷² See the organogram of the Forensic Observation and Mental Institution here (in Hungarian): https://bv.gov.hu/sites/default/files/Szervezeti%20fel%C3%A9p%C3%ADt%C3%A9s_0.pdf

¹⁷³ See: Bacskák, D. – Krámer, L.: “Punishment-therapy” – Chances of Psycho-rehabilitation for Mentally Disordered Offenders Under Forced Medical Treatment (in Hungarian), *Lege Artis Medicinae* 2020; 30(1-2): 67-74., here: <https://elitmed.hu/kiadvanyaink/lege-artis-medicinae/buntetesterapia-kenyszergyogykezeles-alatt-allo-betegek-pszichorehabilitacios-lehetosegei-magyarorszagon> p. 70-72.

¹⁷⁴ <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-cpt-visits-hungary>

¹⁷⁵ NPA, *End of year conference at the IMEI*, <https://bv.gov.hu/hu/intezetek/imei/hirek/7357>

use the phone or Skype, read his mail, write his mail and claims, eat, clean the cell, or arrange his belongings alone. He also could not participate in any of the leisure activities, he could not work, he was not provided with a radio, a white cane, a service dog or a Braille-book. Nor did he benefit from any derogations from the rules. He was never assisted by any of the prison staff members and was forced to ask other prison mates to help him with his activities. The court also found that the prison was not accessible to a blind person and that none of the prison staff were trained to assist and deal with such a disabled person. After the 2-year period in question, although the client is not ill, he was transferred to Unit III (Algyó-Nagyfa) of the Szeged Strict and Medium Regime Prison, which serves as a Chronic After-Care Unit of the penitentiary system, where he is assisted by the prison staff. This unit is also not accessible to blind people, there are no activities or care tailored for them.

Following the submission of the above-mentioned client, the Commissioner for Fundamental Rights stated in his letter of 2023 that given that the prison was not barrier-free, his situation was vulnerable. The Commissioner called the Lieutenant General of the NPA to place disabled detainees in accessible prisons appropriate to their status and to contact organisations dealing with disability rights to map the necessary interventions in prison settings. The HHC has received no follow-up information on any measures taken.

15) Specific measures to protect detainees with special needs or other vulnerabilities

- e) Protection of LGBTI detainees
- f) Protection of trans detainees
- g) Protection of other vulnerable detainees
- h) NPM assessment

What is your assessment of measures provided for detainees in vulnerable situations – such as belonging to the LGBTI community? Are the measures in place adequate to ensure effective protection?

Several special units operate within the Hungarian penitentiary system **to provide protection for detainees with special needs or those in vulnerable situations** and individual needs-based placement to detainees such as, among others, the first time offenders unit, the elderly detainees unit and the psycho-social unit. However, the number of inmates placed is significantly lower in comparison to the number of those who would require such specific placement.

Table 5 – No. of detainees placed in some special units on 31 October 2023¹⁷⁶

Name of penitentiary	First-time offenders' unit	Elderly inmates' unit	Psycho-social unit
Állampuszta National Prison	47	-	44
Balassagyarmat Strict and Med. Regime Prison	2	-	-
Middle-Transdanubian National Prison	27	29	-
Győr-Moson-Sopron County Remand Prison	-	1	-
Bács-Kiskun County Remand Prison (Kecskemét)	-	-	-
Kalocsa Strict and Medium Regime Prison	-	20	-

¹⁷⁶ Ibid.

Kiskunhalas National Prison	20	-	-
Márianosztra Strict and Medium Regime Prison	-	-	5
Borsod-Abaúj-Zemplén County Remand Prison	44	-	-
Budapest Strict and Medium Regime Prison	-	-	21
Pálhalma National Prison	50	-	88
Sátoraljaújhely Strict and Medium Regime Prison	-	6	-
Sopronkőhida Strict and Medium Regime Prison	-	-	30
Szeged Strict and Medium Regime Prison	-	-	14
Szombathely National Prison	27	47	-
Tököl National Prison	45	-	39
Tiszalök National Prison	-	-	14
Vác Strict and Medium Regime Prison	-	16	-
Veszprém County Remand Prison (Veszprém)	14	-	-
TOTAL	276	119	255

Academic literature widely accepts that the prevalence of mental disorders among prisoners is much higher than those in the general population: around 65% of the prison population may suffer from a personality disorder, and another 10% may be diagnosed with major depression.¹⁷⁷ Taking this into account, the number of detainees placed in a Psycho-social unit (255) seems relatively low.

The same concern arises when it comes to first-time offenders and elderly detainees.¹⁷⁸ As of 31 October 2023, 12% of first-time offenders were placed in a specialised unit adapted to their needs, and 13% of all 60+ year-old detainees were placed in a specialised unit for elderly detainees.¹⁷⁹

There are no specific legal regulations concerning the **protection of LGBTI detainees**. In practice, however, they are often placed in a specific Psycho-social unit of the penitentiary institution, if such a placement is available. Placement in the psycho-social unit can be based on "personal circumstances" or if, owing to the nature of the offence committed by them or their vulnerability, the safety of their detention can only be ensured by placement in this unit.¹⁸⁰ Placement in this unit may happen at the request of the detainee or ex officio.¹⁸¹ The psychosocial unit requires, as a rule of conduct, fairness among prisoners by enforcing community aspects, and the constant monitoring of the community morale in order to maintain it.¹⁸²

16) Specific measures to address radicalisation in prisons

- a) General measures to prevent radicalisation
- b) Risk assessments
- c) Training of staff
- d) Deradicalisation measures
- e) NPM assessment

¹⁷⁷ See Section 3.4.3 of the [European Psychiatric Association's guidance on forensic psychiatry](#)

¹⁷⁸ § 61 of Action Report, [DH-DD\(2023\)1213](#).

¹⁷⁹ Source: Response no. 30500/4293/2023 issued by the NPA to the HHC's FOI request on 04/09/2023.

¹⁸⁰ Section 70(1) of the Ministry of Justice Decree no. 16/2014 on the detailed rules on the execution of imprisonment, detention, pre-trial detention, and detention as a substitute for fines

¹⁸¹ Section 70(2) of the Ministry of Justice Decree no. 16/2014 on the detailed rules on the execution of imprisonment, detention, pre-trial detention, and detention as a substitute for fines

¹⁸² Section 25 of Order 20/2021. (IV. 15.) of the NPA on the implementation of tasks relating to prisoners with special needs and prisoners in other specialised units

What is your assessment of measures provided to address radicalisation in detention?

The HHC is not aware of any specific measures to counter radicalisation in Hungarian prisons.

17) Inspections and monitoring

- f) Inspections
- g) Access to detention facilities by national authorities
- h) Access to detention facilities by international bodies
- i) NPM assessment

What is your assessment of the accessibility of detention facilities for the purposes of inspections and monitoring of detention conditions?

The Hungarian NPM regularly conducts visits to penitentiary institutions and publishes the reports of these visits, although there is usually a two-year gap between the NPM's visit and the publication of its reports.¹⁸³ The NPM usually conducts unannounced visits to police detention facilities, while prisons are visited after prior notification to the NPA.¹⁸⁴

The CPT appears to have adequate access to places of detention. It has carried out 11 visits to Hungary since the ratification of ECPT in 1993, its most recent periodic visit took place between 16 May 2023 and 26 May 2023, but its report has not yet been published.¹⁸⁵

However, it is important to note that **there is no access for civil society to monitor criminal detention facilities** in Hungary. The national capacity to monitor detention has significantly decreased with the termination of the only CSO-led prison monitoring scheme. For more than two decades, between 1995 and 2017, the Hungarian Helsinki Committee ran a detention-monitoring programme, which ended because the Government unilaterally terminated the HHC's cooperation agreement with the authorities. During the period of the detention-monitoring programme, the HHC carried out 1,234 monitoring visits to police jails, 48 visits to penitentiary institutions and made 51 inspections of places of immigration detention.

The termination of the HHC's long-standing lay prison-monitoring programme resulted in a significant weakening of the protection of detainees' rights and the chances of uncovering systemic problems. It also reduced the necessary capacity of the Hungarian monitoring system to deal with serious human rights violations within the penitentiary system.

18) Access to remedy

- a) Legal remedies
- b) Legal assistance
- c) Request and complaints
- d) Independent authority
- e) NPM assessment

¹⁸³ See for example the NPM's 2023 reports on penitentiaries, the visits the reports were referring to were conducted in 2021: <https://www.ajbh.hu/en/opcat-jelentesek-2023>

¹⁸⁴ <https://www.ajbh.hu/en/web/ajbh-en/opcat-visits-2023>

¹⁸⁵ <https://www.coe.int/en/web/cpt/hungary>

What is your assessment of the existence and use of effective remedy dealing with detention conditions? Do detainees make use of the complaint's mechanisms regarding detention conditions? What happens to the complaints? Are the cases dealt with in a timely manner? Are they provided with a relief? What kind of relief?

a) Legal remedies

In March 2015, the ECtHR issued a [pilot judgment](#) in the *Varga and Others v. Hungary* case on detention conditions in Hungary, condemning the country because

- The inadequate detention conditions of the applicants in the case amounted to the violation of the prohibition of inhuman or degrading treatment, and
- The applicants' rights were also violated by the lack of effective preventive and compensatory remedies with respect to their detention conditions.

The ECtHR concluded that the overcrowding of penitentiary institutions constituted a structural problem in the country, and set out that Hungary should produce "a time frame in which to make appropriate arrangements and to put in practice preventive and compensatory remedies" in respect of the alleged violations.

As a result, as of 1 January 2017, Hungary put in place a preventive and a compensatory remedy system, namely a mechanism for complaints about conditions of detention and one to claim compensation in respect of conditions of detention violating fundamental rights. This system was amended by Act CL of 2020, introducing a 'simplified compensation procedure'.

As one of the most important changes, the amendment abolished the requirement that detainees held in inhuman or degrading conditions must file a preventive complaint with the prison governor before they can submit a claim for financial compensation. From 1 January 2021, if inmates want to be compensated for overcrowding, they can submit the compensation claim to the penitentiary institution without any prior obligation. After the complaint has been submitted, the penitentiary institution may reject the complaint as inadmissible, start a simplified compensation procedure (newly introduced procedure) or refer the case to the penitentiary judge ("ordinary" compensation procedure).

The "simplified compensation procedure" was introduced as a new procedure, while the "ordinary", already existing compensation procedure has also been kept as part of the compensation scheme. In contrast to the ordinary compensation procedure, claims submitted in the simplified compensation procedure are adjudicated by the penitentiary institution itself. It must be noted that in these procedures, only the minimum daily sum of compensation – included in the Penitentiary Code – can be awarded to the detainees, and only the lack of adequate moving/living space will be taken into account (irrespective of what other physical conditions the detainee asks compensation for). According to the HHC's understanding, under Section 75/G(6) of the Penitentiary Code, detainees have the possibility to request a judicial review of the penitentiary's decision if they are of the view that the physical placement conditions, beyond overcrowding, were so substandard that those should have been taken into account as well when establishing the amount of compensation. It is to be noted that in cases where no overcrowding occurs, but other detention conditions are substandard, the 'simplified compensation procedure' cannot be implied.

After the final decision on the compensation claim, paying the amount awarded to detainees remains the competence of the Ministry of Justice. Compensations shall be transferred to the detainee's penitentiary depository account (a depository account handled by the penitentiary, used by detainees e.g. to purchase extra food in the penitentiary), hence, detainees are not allowed to request payment in cash.

The amount of compensation paid to the detainee's depository penitentiary account (shall be "reserved" for the time the detainee will be released. The prison governor may allow the detainee to forward the sum of the compensation or a part of it to their relatives or contact persons, upon the detainee's request and under exceptional circumstances.¹⁸⁶ This rule essentially means that the state – which is the violator in such cases – determines what the detainees (whose possibilities are already limited in this regard) can do with the compensation they receive for a violation of their human rights by state authorities. The possibility of the prison governor granting an exception to this rule when it comes to payments to the detainees' family and other contact persons makes detainees even more vulnerable to the prison governor, who can decide in a range of questions profoundly affecting the detainees' daily life. We believe that the rule is discriminatory, as no other persons entitled to compensation for the violation of their fundamental rights are restricted in when and how they wish to use the compensatory amount. The detrimental impact of this limitation is even clearer with regard to inmates serving long sentences, as in their case the ability to access the compensation may be delayed for decades. Finally, it seems that inmates are not allowed before their release to use the compensation money for paying the fees of the attorneys who represented them in the compensation procedure (or, in the best case, they are allowed to do so if the commander permits this within their discretion).

As highlighted above, despite the Council of Europe Committee of Ministers repeatedly expressed concerns,¹⁸⁷ if the statutory minimum of living space is ensured, detainees are not entitled to claim compensation for inadequate material conditions of detention (e.g. unsanitary circumstances, lack of proper ventilation or lighting or temperature, insect infestations etc.). In such cases, there is no special legal remedy available in the Hungarian legal system to redress detainees' grievances due to inadequate prison conditions. If a detainee feels that they are being held in inappropriate prison conditions, they can exercise their right to legal remedy under the general legal remedy system. Detainees can indeed file a civil action based on infringement of personality rights. However, this is a general civil law claim decided upon in a general civil law procedure rather than a specific procedure tailored to prison conditions. Thus, it is typically a multi- stage litigation that lasts for years. It may also be costly: in case of losing the lawsuit, the plaintiff prisoner has to pay the court fees (6% of the compensation claimed) as well as the other party's legal costs. (The other party's legal costs must be paid even if due to the inmate's indigence a legal aid lawyer is appointed for them and they are exempted from the court fees.)

b) Legal assistance

¹⁸⁶ Act CL of 2020 Article 18 amending the Penitentiary Code by inserting Paragraph (4a) into its Article 133.

¹⁸⁷ See e.g. § 2(a) of the Notes of the Department for the Execution of Judgments on the Agenda of the Committee of Ministers regarding the Varga and Others and István Gábor Kovács group v. Hungary (Applications Nos. 14097/12, 15707/10), [CM/Notes/1398/H46-12](#), 11/03/2021

The simplified compensation procedure (for overcrowding) may be launched without a lawyer, if the inmate has the necessary skills to fill out the complaint formula. However, in case a lawyer is needed, legal assistance is only available with the limitations described below.

The possibility of having a lawyer appointed by the state for an inmate wishing to launch a compensation procedure, does not offer a viable solution for the problem for the following reasons. Under Decree 32/2017 (XII. 27.) of the Minister of Justice on the Fees Payable to Appointed Lawyers (paid by the State to the lawyer), an appointed counsel is only entitled to an appointed lawyer's fee in court proceedings or during the pre-charge phase of criminal proceedings.

The compensation procedure starts with a claim filed to the penitentiary. The penitentiary examines the claim and rejects it if there are apparent grounds for refusal (e.g. because the claim is not made by the person entitled to make it or because it was submitted late). If the claim is justified and there are no other particular circumstances to concern (e.g. civil compensation payable to the victim of a crime committed by the applicant prisoner), the institution awards compensation ('simplified procedure'). The institution only refers the claim to the penitentiary judge if no simplified procedure is possible.

In light of the rules mentioned above, the appointed counsel is only entitled to a fee if and from the moment the claim is forwarded by the penitentiary to the penitentiary judge, since then the procedure can be considered as a court proceeding within the meaning of Section 1(1) of Decree 32/2017 (XII. 27.) of the Minister of Justice. Even in this case, the appointed counsel is only remunerated if they (i) participate in a procedural act, (ii) prepare for a procedural act, or (iii) consult their client. Appointed lawyers are not remunerated for preparing and submitting documents. Under the Penitentiary Code, the penitentiary judge can decide on a compensation claim based on the case file without holding a hearing. In such cases, no procedural act takes place, thus the only activity for which the appointed counsel may claim remuneration throughout the whole compensation procedure is the consultation with their client, but not for obtaining information from the penitentiary institution, for compiling and submitting the claim itself, nor for appealing against a decision by the penitentiary judge. The public fee for the consultation is HUF 4200 (approximately EUR 11) per hour, set by the law. This obviously hinders effective and proactive rights enforcement, and therefore cannot offset the negative impact of the limitation of having the compensation paid to the lawyers' escrow account.

As to the rule preventing the payment of compensation into an attorney's escrow account, the following must be pointed out. In case of precarious prisoners, the compensation awarded would be the only means for the inmate to pay the fees of a lawyer. Even working prisoners make very little money, and inmates' families are often indigent (often not independently from the fact that their relative is in prison). The financial problems of the families tend to become more and more severe as the criminal proceedings progress, e.g. because if the defendant is taken into pre-trial detention, their income is lost, the legal fees often eat into the family's savings if there are any, etc. Therefore, it is obvious that the situation of persons deprived of their liberty is precarious regarding their ability to pay legal fees and thus regarding their access to professional legal assistance, and it becomes increasingly precarious with the passing of time and the waning financial resources of concerned families.

This limitation concerning the payment of compensation is unprecedented in all other cases, as generally, it is up to the client and the attorney to agree on the method and procedure of payment. This means an interference into the inmate's right to dispose of their property with a serious hindering effect regarding their access to justice. It is common knowledge and has been reported by both Hungarian Helsinki Committee clients and lawyers themselves that the limitations regarding attorneys' escrow accounts have significantly decreased the willingness of lawyers to take prison overcrowding cases due to the increased risk of not being paid for their work.

c) Requests and complaints

The HHC has received many enquiries from detainees who have reported that their requests and complaints filed on papers have not been registered by the prison staff despite the relevant legislation.¹⁸⁸ Introducing the electronic detainee contact point, called KIOSK, may partly address the above problem, as requests lodged through the KIOSK will be recorded in the system without further action. However, to the best of the HHC's knowledge, KIOSKs are far from being accessible to all detainees, and the approval of the reintegration officer is required for the request or complaint to be forwarded to the recipient. It is evident that the number of KIOSKs per detainee and their accessibility should be improved.

In an enquiry to the HHC, a detainee reported that during almost a year of detention, he was only allowed to use the KIOSK system once and only in the presence of an officer, despite repeated requests. The HHC has also received complaints from other detainees about the lack of time and a discreet environment free from the intrusive attention of the prison staff to use the KIOSK. Detainees who spend more time locked up in their cells under the regime rules that apply to them have fewer opportunities to use the KIOSKs installed outside their cells. There were also complaints that the KIOSK user interface is too complex, even for higher-education detainees.

It is important to highlight that from 1 January 2023, requests and complaints within the prison system can only be submitted on a paper form established for this purpose or through the KIOSK system. Failure to use this form will result in the rejection of the request or complaint without a substantive examination.¹⁸⁹ The HHC has received several complaints from detainees that the forms are not easily accessible; sometimes, it takes days for detainees even to obtain a form itself, which enables them to word their requests or complaints.

Detainees often do not receive a written decision on the rejection of the complaint or request without a substantive investigation. Instead, they are 'lectured by the probation officer', meaning the decision is communicated to them orally. Such a practice gives rise to abuse and hinders the right to an effective remedy under Article 13 of the European Convention of Human Rights (ECHR) since the exact content of the decision and the mandatory remedy instructions (e.g. which forum you can appeal to against the decision) are very difficult to reconstruct afterwards. One detainee indicated that he had requested a hearing with the prison commander on several occasions through the KIOSK system. Still, the reintegration officer responded to his request each time by labelling it as 'the

¹⁸⁸ Section 10 a) of the Ministry of Justice Decree no. 16/2014 (XII. 19.) on the detailed rules on the execution of imprisonment, detention, pre-trial detention, and detention as a substitute for fine

¹⁸⁹ Sections 140(2), 75/F(d) and 141(5) of the Penitentiary Code

detainee was lectured by his probation officer', making it impossible for the hearing to occur.

Finally, it is essential to note that in some cases, requests may be decided only at a late stage, when it is practically impossible to appeal against the decision effectively. The HHC is aware of several cases where – similar to the facts in cases represented by HHC lawyers before the ECtHR *Pintér v. Hungary*¹⁹⁰ and *Császy v. Hungary*¹⁹¹ – a detainee has requested to attend the funeral of a relative, but the decision on the rejection of the request was taken only on the day of the funeral, thus making it impossible to effectively appeal against the negative decision.

d) Independent authority

As regards the procedure of the prosecutor's office in charge of the legal supervision of the penitentiary system, prosecutors typically find a violation only if a specific provision of the Penitentiary Code or other sectoral, prison-related legislation is violated. If there is no such violation, but for example, a violation of certain inherent personality rights, such as human dignity or health, they typically find the complaint unfounded, even though these rights are not limited by the Penitentiary Code and are expressly guaranteed by the Fundamental Law or the Civil Code of Hungary, or even by international conventions such as the ECHR.

Considering the operation of the Commissioner for Fundamental Rights (hereinafter: CFR), it could be said that Rule of law backsliding in Hungary entailed the severe weakening of independent institutions, as a result of the systematic undermining of their role as checks and balances to political power.¹⁹² From the perspective of the protection of human rights, the effect this had on the position of Hungary's Ombudsperson, the Commissioner for Fundamental Rights, who is the country's national human rights institution (NHRI), is crucial.

In June 2021, the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI) recommended¹⁹³ that the CFR is downgraded from an A to a B status as an NHRI. The downgrading became final in March 2022.¹⁹⁴

The Commissioner for Fundamental Rights is Hungary's national preventive mechanism (NPM) under the OPCAT since 2015. In 2021, the Committee of Ministers of the Council of Europe, expressed concerns regarding the NPM's functional independence and funding, the human and financial resources allocated to it, and "its capacity to carry out additional preventive work other than detention monitoring".¹⁹⁵ In December 2022, it reiterated its call on Hungarian authorities to provide information on measures taken or foreseen to strengthen the role of the CFR in performing its NPM function.¹⁹⁶

The law¹⁹⁷ provides the right to inmates to apply to the NPM. However, the NPM has no general powers to investigate individual complaints.

¹⁹⁰ *Pintér v. Hungary*, Application no. [39638/15](#).

¹⁹¹ *Császy v. Hungary*, Application no. [14447/11](#).

¹⁹² See in detail: Hungarian Helsinki Committee, *Rule of law backsliding in Hungary from a criminal justice and law enforcement perspective*, January 2023.

¹⁹³ See the SCA's [Report and Recommendation document](#), 14-24 June 2021, pp. 2-3 & 12-15

¹⁹⁴ See the GANHRI's current [chart on accreditation of NHRIs](#) as of 20/12/2023, p. 13.

¹⁹⁵ [CM/Del/Dec\(2021\)1419/H46-16](#), § 7

¹⁹⁶ [CM/Del/Dec\(2022\)1451/H46-16](#), § 10

An inmate extradited from the Netherlands on the basis of an assurance had different complaints concerning his detention's non-compliance with the assurance. In 2017, he wrote to the Ministry of Justice concerning the perceived breaches of the assurance the Netherlands was given in the course of his extradition proceedings. The Ministry of Justice informed him in a letter that the body vested with the task of overseeing compliance with assurances is the Ombudsman. Based on this, the inmate contacted the Ombudsman, who, in December 2018, informed him that he was not responsible for overseeing compliance with assurances either, since in his capacity as the National Preventive Mechanism under the OPCAT he does not look into individual complaints but monitors detention conditions in general.