



Hungary should reform its system for reviewing whole life sentences

The case mainly concerned a prisoner's complaint that his imprisonment for life without eligibility for parole amounted to inhuman and degrading treatment as it was irreducible.

In today's Chamber judgment in the case of [László Magyar v. Hungary](#) (application no. 73593/10), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 3 (prohibition of inhuman or degrading treatments) of the European Convention on Human Rights as concerned Mr Magyar's life sentence without eligibility for parole, and

a violation of Article 6 § 1 (right to a fair trial within a reasonable time) as concerned the excessive length of the criminal proceedings brought against Mr Magyar.

The Court was not persuaded that Hungarian law allowed life prisoners to know what they had to do to be considered for release and under what conditions. Moreover, the law did not guarantee a proper consideration of the changes in the life of prisoners and their progress towards rehabilitation. Therefore, the Court concluded that the sentence of Mr Magyar could not be regarded as reducible, which amounted to a violation of Article 3. However, the Court noted that the finding of a violation could not be understood as giving Mr Magyar the prospect of imminent release; it had not been even argued in the case that there were no longer any grounds for his detention.

Moreover, the Court held that this case disclosed a systemic problem which could give rise to similar applications. Therefore, for the proper implementation of this judgment, Hungary would be required to put in place a reform of the system of review of whole life sentences to guarantee the examination in every case of whether continued detention is justified on legitimate grounds and to enable whole life prisoners to foresee what they must do to be considered for release and under what conditions.

Principal facts

The applicant, László Magyar, is a Hungarian national who was born in 1966 and is currently detained at Szeged Prison (Hungary).

In 2002, criminal proceedings were initiated against Mr Magyar and some other people who were suspected of having committed a series of burglaries against elderly people. Soon after the assaults, several victims had died as a result of their injuries. In May 2005, Mr Magyar was convicted of murder, robbery and several offences, and was sentenced to life imprisonment without eligibility for parole.

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

In January 2006, this judgment was quashed on appeal. In November 2008, Mr Magyar was given the same sentence, which was subsequently upheld by the Court of Appeal in December 2009 and by the Supreme Court in September 2010.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman and degrading treatments), Mr Magyar complained that his imprisonment for life without eligibility for parole amounted to inhuman and degrading treatment as it was irreducible. Under Article 6 § 1 (right to a fair trial within a reasonable time), he also complained about the excessive length of the criminal proceedings against him.

The application was lodged with the European Court of Human Rights on 9 December 2010.

Judgment was given by a Chamber of seven judges, composed as follows:

Guido **Raimondi** (Italy), *President*,
İşıl **Karakaş** (Turkey),
András **Sajó** (Hungary),
Helen **Keller** (Switzerland),
Paul **Lemmens** (Belgium),
Robert **Spano** (Iceland),
Jon Fridrik **Kjølbro** (Denmark),

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

Article 3 (inhuman or degrading treatment)

The Court acknowledged that those convicted of a serious crime could be sentenced to indeterminate detention where necessary for the protection of the public. However, Article 3 must be interpreted as requiring reducibility of the sentence, in the sense that national authorities should be allowed to review life sentences in order to assess whether life prisoners had made such significant progress towards rehabilitation that their continued detention could no longer be justified. Moreover, from the beginning of their sentence, life prisoners should be entitled to know what they have to do to be considered for release and under what conditions.

The Court distinguished the case from a former Hungarian one which concerned a life sentence with eligibility for parole and noted that the regulation and practice of the presidential clemency warrants a stricter scrutiny where it is not complemented by the distant but real possibility for release on parole. Firstly, Hungarian legislation did not compel the authorities or the President of the Republic to assess, whenever life prisoners request pardon, whether their continued imprisonment was justified. Secondly, although the authorities had a general duty to collect information about life prisoners and to enclose it with their pardon request, the law did not provide for any specific guidance as to what kind of criteria were to be taken into account in the gathering of such personal particulars and in the assessment of the request. Finally, neither the Minister of Justice nor the President of the Republic had to give reasons for their decisions about such requests.

Therefore, the Court was not persuaded that the institution of presidential clemency would have allowed any prisoner to know what they had to do to be considered for release and under what conditions. Moreover, the law did not guarantee a proper consideration of the progress towards rehabilitation made by life prisoners, however significant. Therefore, the Court concluded that the sentence of Mr Magyar could not be regarded as reducible, which amounted to a violation of Article 3.

Article 6 § 1

The Court considered that the Government's arguments in order to justify the length of proceedings in this case were not convincing. While acknowledging that the case had been of a certain complexity, it found that the overall length of proceedings had been unacceptable.

Article 46 (binding force and execution of judgments)

A judgment in which the Court found a breach of the European Convention imposes on the contracting State a legal obligation not just to pay those concerned any sums awarded by way of just satisfaction, but also to choose, subject to supervision by the Committee of Ministers, the measures to be adopted in their domestic legal order to put an end to the violation found by the Court and to redress it.

This case disclosed a systemic problem which could give rise to similar applications. Therefore, for the proper implementation of this judgment, Hungary would be required to put in place a reform – preferably by means of legislation – of the system of review of whole life sentences. The mechanism of such a review should guarantee the examination in every case of whether continued detention is justified on legitimate grounds and should enable whole life prisoners to foresee what they must do to be considered for release and under what conditions.

The Court reiterated that States enjoyed wide discretion ("margin of appreciation") in deciding on the appropriate length of prison sentences for specific crimes. Therefore, the mere fact that a life sentence could eventually be served in full, did not make it contrary to Article 3. Accordingly, review of whole life sentences did not necessarily have to lead to the release of the prisoners in question.

Article 41 (just satisfaction)

The court held, by six votes to one, that Hungary was to pay Mr Magyar 2,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,150 in respect of costs and expenses.

Separate opinion

Judge Lemmens expressed a joint partly dissenting opinion. This opinion is annexed to the judgment.

The judgment is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

Press contacts

echrpess@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Nina Salomon (tel: + 33 3 90 21 49 79)

Denis Lambert (tel: + 33 3 90 21 41 09)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.