EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF ANTONOV v. ESTONIA

(Application no. 48721/22)

JUDGMENT

Art 3 (substantive) • Inhuman or degrading punishment • Resetting of the starting date of the 25-year minimum term of the applicant's life sentence to the date of his latest criminal conviction for new offence rendered his life sentence *de facto* irreducible • Life sentence to be reviewed 50 years after its imposition as a result of the domestic system for calculating aggregate sentences • Domestic courts' diverse application of domestic law at different times with respect to the applicant's new convictions, for offences committed while detained, rendered the mechanism of setting the starting date of an aggregate sentence confusing and unforeseeable • Presidential clemency procedure lacked relevant procedural safeguards and did not constitute a remedy corresponding to the notion of "prospect of release" • Impugned domestic mechanism unduly delayed life prisoners' eligibility to seek review of their sentence • Rigid, automatic and non-individualised resetting of the 25-year minimum term regardless of the degree of severity of the offence committed, the corresponding punishment imposed, or the time already served by the life prisoner • Finding of a violation not to be understood as affording the applicant the prospect of imminent release

Prepared by the Registry. Does not bind the Court.

STRASBOURG

28 April 2026

FINAL

28/07/2026

This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Antonov v. Estonia,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Ioannis Ktistakis*, President*,
Peeter Roosma,
Darian Pavli,
Úna Ní Raifeartaigh,
Mateja Đurović,
Canòlic Mingorance Cairat,
Vasilka Sancin*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 48721/22) against the Republic of Estonia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an Estonian national, Mr Andrei Antonov ("the applicant"), on 7 October 2022;

the decision to give notice to the Estonian Government ("the Government") of the complaint concerning the calculation of the minimum period that must elapse before consideration may be given to the possibility of the applicant's early release, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated in private on 10 March 2026,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The complaint concerns the calculation of the period that must elapse before a prisoner who is serving a life sentence but who has been convicted of a new offence since the start of his imprisonment may be considered for early release.

THE FACTS

2. The applicant was born in 1972 and is detained in Viru Prison. He was granted legal aid and was represented by Ms I. Gromtsev, a lawyer practising in Jõhvi.

3. The Government were represented by their Agent, Mr T. Kolk, Representative of Estonia to the European Court of Human Rights.

4. The facts of the case may be summarised as follows.

5. The applicant has been detained since 18 October 1994. He was convicted in May 1995 and May 1996 and sentenced to 15 years in prison on both occasions. He was convicted again in August 1996, when he was sentenced to life imprisonment.

6. While serving his sentence, the applicant was convicted on 30 January 2004 of attempted murder, and on 14 March 2013 of causing damage to the health of another prisoner and of inflicting physical abuse that had caused pain. In the proceedings before the Court the Government submitted the court judgment of 30 January 2004, the operative part of which reads, *inter alia*, that the starting date of the applicant's sentence in respect of his conviction for attempted murder was 30 January 2004.

7. By a judgment of 9 July 2021 the Viru County Court found the applicant guilty of causing damage to the health of another prisoner in 2019 and sentenced him to one year and three months' imprisonment. Under Articles 64 § 4 and 65 § 2 of the Criminal Code, the court added the "unserved part" of the applicant's previous life sentence to this latest sentence and, as an aggregate punishment (*liitkaristus*), sentenced him to life imprisonment, in respect of which the court deemed the period from 18 October 1994 until 8 July 2021 to have been already served. Consequently, the County Court deemed that the applicant had started to serve the term of this aggregate punishment on 9 July 2021.

8. The applicant appealed, requesting that the first-instance judgment be set aside in so far as it concerned setting the starting date of serving his aggregate sentence. In his appeal the applicant argued that the starting point of his life sentence should be deemed to be 30 January 2004 and that the period from 18 October 1994 until 30 January 2004 should be considered to have been already served. He pointed to several examples of other life prisoners who had been convicted of further crimes while serving their sentences, but in respect of whom the starting dates of their aggregate sentences had not been modified upon their being convicted of a further crime. He also noted that when he had been convicted on 14 March 2013, it continued to be deemed that the starting date of his sentence had been set at 30 January 2004.

9. On 10 November 2021, the Tartu Court of Appeal upheld the judgment of the Viru County Court and dismissed the applicant's appeal. The Court of Appeal deemed that the manner in which the aggregate punishment had been imposed under Article 65 § 2 of the Criminal Code unequivocally indicated that the starting date for serving a sentence could only be the date of the latest court judgment. In this regard, the Court of Appeal referred to the Supreme Court's judgment in case no. 3-1-1-104-15 (see paragraph 27 below). The Court of Appeal also noted that the legislature had not made any distinction between the starting date of a life sentence and that of other sentences. Thus, the County Court had correctly deemed that the applicant had started to serve his aggregate punishment on 9 July 2021.

10. The applicant lodged an appeal on points of law against the appellate court's judgment, challenging the manner in which the starting date of his sentence had been set. He submitted that the date on which a person was considered to have started to serve his or her sentence was relevant for life

prisoners, as it was from that date that the minimum prison term of 25 years was calculated (after the elapse of which life prisoners could be considered for release on parole). He argued that the fact that the lower-instance courts had set a new starting date for when he could be considered to have begun serving his life sentence meant in practice that the start of the minimum period that he had to spend in prison before he could be considered for early release had been reset (that is, it had started running anew). That practice was unfair with respect to persons who had already served 25 years in prison. He submitted that with respect to life prisoners the date on which they were deemed to have started to serve their life sentences should be deemed to be the date on which they had initially started to serve those sentences. He again pointed to several examples of court judgments concerning other life prisoners who had been subsequently sentenced for other offences but in respect of whom the date on which they had been deemed to have started to serve their life sentence had not been changed. He added that when he had been convicted on 14 March 2013, the starting date of his sentence had been mistakenly set at 30 January 2004, but that this decision had already become final.

11. On 10 June 2022 the Supreme Court dismissed the applicant's appeal on points of law. The court stated that life imprisonment was imposed for an indefinite period. This meant, among other things, that – unlike with fixed-term prison sentences – the "unserved portion" of a life sentence did not decrease over time. Therefore, throughout the entire duration of a life sentence, the "unserved portion" was still life imprisonment within the meaning of Article 65 § 2 of the Criminal Code – regardless of how long the offender had already served under the previously imposed life sentence before committing a new crime. In the event that the person in question committed a new offence while serving his life sentence, an aggregate sentence of life imprisonment was imposed. The starting date for serving that aggregate life sentence under Article 65 § 2 of the Criminal Code could only be the date of the latest court judgment by which the applicant had been convicted, because the "unserved part" of his earlier sentence had been determined only at the time that the aggregate punishment had been decided. That date had to be indicated in the operative part of the new conviction as marking the start of the sentence. The Supreme Court did not address the issue of earlier court decisions in other cases that had allegedly contradicted the approach taken by the Supreme Court, and nor did it consider the question of calculating the point in a prisoner's sentence at which he could be considered for early release.

12. Two Supreme Court justices issued a joint dissenting opinion. They argued that a Constitution-compliant interpretation of Articles 64 § 4 and 65 § 2 of the Criminal Code favoured the conclusion that the starting date of the applicant's life sentence – even in the event that that sentence was later supplemented by a fixed-term sentence (as punishment for a further crime) –

should be the original starting date of the life sentence. According to the dissenting justices, life sentences did not have a measurable "unserved portion" under Article 65 § 2 of the Criminal Code; hence, their starting date should not be reset unless a new sentence was also one of life imprisonment. In their opinion the interpretation supported by the majority of the justices did not clearly follow from the wording of Articles 64 § 4 and 65 § 2 of the Criminal Code. The dissenting justices' argument about the lack of legal clarity was supported by the fact that under previous Estonian court practice, the starting date of the aggregate sentence in such situations had usually been set at the date on which the prisoner in question had begun serving the life sentence imposed by the earlier judgment (although the dissenting justices did note that there was also some earlier case-law that accorded with the decision adopted by the majority). The approach followed in the majority Supreme Court judgment delivered in respect of the instant case indicated that *all* new crimes committed by a prisoner who was already serving a life sentence were to be treated in the same way (regardless of the severity of the new offence) – that is, the 25-year period after which a life prisoner could be considered for early release was to be reset. Moreover, the judgment meant that the date on which a prisoner would become eligible for early release would be dependent on how long the new criminal proceedings took; that length would depend on the degree of the efficiency of those proceedings. The dissenting justices emphasised that the approach which they supported would allow courts to take into consideration the severity of the new crime when deciding on early release. They also suggested that the legislature could modify the relevant law by introducing a rule whereby a new conviction postponed early-release eligibility by a period proportional to the severity of the crime in question.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. RELEVANT LEGAL FRAMEWORK

A. Constitution of the Republic of Estonia

13. Article 78 section 19 of the Constitution of the Republic of Estonia (*Eesti Vabariigi põhiseadus*) provides that the President of the Republic may, as an act of clemency, release a convicted person from serving a sentence or mitigate (*kergendab*) that sentence, after receiving an application lodged by that person.

B. Criminal Code

14. Article 64 of the Criminal Code (*karistusseadustik*) concerns the imposition of aggregate punishments. Article 64 § 1 provides that in the event

of there being principal punishments (*põhikaristus*) of the same type, the aggregate punishment shall be imposed either by increasing the most onerous of the individual punishments imposed or by considering a lesser punishment to be covered by the imposition of the most onerous one. Article 64 § 4 adds that if one of the punishments imposed is that of life imprisonment, the aggregate punishment shall also be that of life imprisonment.

15. Article 65 concerns the imposition of aggregate punishments after a person has already been convicted. Article 65 § 2 provides that if an offender commits another criminal offence after the pronouncement of a conviction but before the respective sentence has been served in full, the unserved part of the sentence imposed by the previous judgment shall be added – in accordance with Article 64 §§ 2, 4 and 5 of the Criminal Code – to the punishment imposed for the new offence.

16. Article 76 concerns release on parole. Article 76 § 4 provides that when deciding whether to release a prisoner on parole, the court must take into consideration (i) the circumstances relating to the commission of the criminal offence in question, (ii) the personality of the prisoner, (iii) his or her previous personal history, (iv) his or her conduct during the serving of his or her sentence – including participation in any activities aimed at reducing the risk of his committing any criminal offences or consenting to participate in such activities during his or her parole period, (v) his or her living conditions (*elutingimused*), and (vi) any consequences for the prisoner that might arise from his release on parole.

17. Article 77 regulates the release on parole of life prisoners.

18. Article 77 § 1, as in force since 1 July 2019, provides that a court may release on parole a person sentenced to life imprisonment if he or she has actually served (*tegelikult ära kandnud)* at least 25 years of that sentence. Article 77 § 2 adds that when deciding on the release of a life prisoner on parole, the courts must take into account the factors listed in Article 76 § 4 of the Criminal Code.

19. Article 77 § 1 (as in force before 1 July 2019) set at 30 years the minimum term that a life prisoner had to serve before he or she could be considered for release on parole.

20. Article 55 § 5^1 of the old Criminal Code (*kriminaalkoodeks* – its title in Estonian at the time in when the applicant was sentenced to life imprisonment; the current Criminal Code came into force on 6 June 2021) – which was in force at the time the applicant was sentenced to life imprisonment – also provided that a life prisoner had to serve a minimum term of 30 years before he or she could be considered for release on parole.

C. Decree no. 13 of the President of the Republic of 31 January 2007 on the establishment of the Clemency Application Review Commission and the approval of its rules of procedure (*Armuandmispalvete läbivaatamise komisjoni moodustamine ja selle töökorra kinnitamine*)

21. The President of Estonia, by Decree no. 13 of 31 January 2007, established the Clemency Application Review Commission and set out its rules of procedure.

22. Article 3 § 1 of the Decree provides that the commission shall review applications for clemency lodged by individuals convicted of crimes by the courts of the Republic of Estonia, after the conviction judgment in question has entered into force.

23. Article 5 provides that an application for clemency must be accompanied by a certified copy of the court judgment by which the person was convicted (or, in the event that sentences have been aggregated, copies of all the judgments in question), together with (i) a notice confirming that the judgment has entered into force, (ii) information "characterising" the convicted person (*süüdimõistetut iseloomustavad andmed*), and (iii) documents that evidence the circumstances cited in the clemency application or that are relevant to the review of that application. In addition, the Office of the President of the Republic may, if necessary, request additional information from courts and State or local government institutions (section 6 of the Decree).

24. In reaching a decision, the commission shall consider: the prior criminal record of the prisoner who lodged the application; the severity and circumstances of the crime committed; the time already served; factors characterising the prisoner and his or her life up to that point; his or her family situation and state of health; and whether the convicted person has acknowledged his guilt and expressed remorse (section 7 of the Decree).

25. As provided by Article 9 of the Decree, the Commission can recommend to the President that he either release the convicted person from the obligation to serve the sentence in question**,** reduce the sentence, or reject the clemency application.

26. The Commission's recommendations to the President are advisory and are not made public (Article 11 of the Decree).

D. Relevant domestic case-law

27. In judgment no. 3-1-1-104-15 of 14 December 2015, the Supreme Court ruled in relation to the imposition of an aggregate punishment under Article 65 § 2 of the Criminal Code that if a person committed a further criminal offence while already serving a sentence, the unserved part of the sentence imposed by the previous judgment had to be added to the

punishment imposed for the new offence. That unserved part was to be calculated by taking the sentence imposed on a person by the previous judgment and deducting from it the portion of the sentence that the person had already served by the time of the delivery of the second judgment. The starting date for serving such an aggregate punishment was to be the date of the second judgment.

II. RELEVANT COUNCIL OF EUROPE MATERIAL

Recommendation (2003)22

28. On 24 September 2003 the Committee of Ministers adopted a Recommendation to member States on conditional release (parole) (Recommendation (2003)22). In summary, it provides a series of recommendations governing the preparation of a prisoner for conditional release, the granting of such release, the conditions that may be imposed, and procedural safeguards. Among the provisions setting out its general principles are paragraphs 3, 4 (a) and 5, which provide:

> "3. Conditional release should aim at assisting prisoners to make a transition from life in prison to a law-abiding life in the community through post-release conditions and supervision that promote this end and contribute to public safety and the reduction of crime in the community.
>
> 4.a. In order to reduce the harmful effects of imprisonment and to promote the resettlement of prisoners under conditions that seek to guarantee safety of the outside community, the law should make conditional release available to all sentenced prisoners, including life-sentence prisoners.
>
> ...
>
> 5. When starting to serve their sentence, prisoners should know either when they become eligible for release by virtue of having served a minimum period (defined in absolute terms and/or by reference to a proportion of the sentence) and the criteria that will be applied to determine whether they will be granted release ("discretionary release system") or when they become entitled to release as of right by virtue of having served a fixed period defined in absolute terms and/or by reference to a proportion of the sentence ('mandatory release system')."

The Explanatory Memorandum accompanying the Recommendation states in respect of paragraphs 4 and 5:

> "Paragraph 4
>
> Conditional release can provide a controlled, individualised and gradual transition from life in detention to life in freedom. The high reconviction rates and the numerous difficulties related to the resettlement of prisoners released after serving the full term of their sentence in prison show that it is necessary to provide such a transition to as many prisoners as possible. Therefore, the possibility of being granted conditional release should be available to all sentenced prisoners, regardless of the sentence-length or the nature of the offence for which they have been convicted.

Life-sentence prisoners should not be deprived of the hope to be granted release either. Firstly, no one can reasonably argue that all lifers will always remain dangerous to society. Secondly, the detention of persons who have no hope of release poses severe management problems in terms of creating incentives to co-operate and address disruptive behaviour, the delivery of personal-development programmes, the organisation of sentence-plans and security. Countries whose legislation provides for real-life sentences should therefore create possibilities for reviewing this sentence after a number of years and at regular intervals, to establish whether a life-sentence prisoner can serve the remainder of the sentence in the community and under what conditions and supervision measures.

...

Paragraph 5

The right of any sentenced person to know and understand what sanction or measure has been imposed on him/her, its practical implications and the manner of its implementation derives from the principle of legal certainty, which is an aspect of the Rule of Law. Knowledge of the exact release date (mandatory release system) or of the minimum period to be served and the criteria on the basis of which the decision to release or not will be made (discretionary release system) provides also an incentive for a prisoner to co-operate in the preparation of his/her release. Without the prisoner's active co-operation, the chances of a successful rehabilitation appear to be limited.

..."

29. Paragraph 16 of the Recommendation provides that the minimum period that prisoners have to serve before becoming eligible for conditional release should be fixed in accordance with the law.

30. Paragraph 21 of the recommendation provides that in the event that a decision-making authority decides not to grant conditional release it should set a date for the reconsideration of the question. In any event, paragraph 21 provides that prisoners should be able to reapply to the decision-making authority as soon as their situation has substantially changed to their advantage.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

31. The applicant complained that the resetting of the 25-year minimum term of his life sentence that he had to serve in order to be considered for release on parole had violated his rights under Article 3 of the Convention, which reads as follows:

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

32. The Government submitted that the complaint was manifestly ill-founded. In support of their position, they referred to the same arguments that they would subsequently cite as regards the merits of the case.

33. The applicant disagreed.

34. The Court notes that the complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

35. The applicant relied in his observations on the arguments that the two Supreme Court justices had raised in their dissenting opinion (see paragraph 12 above).

36. According to the applicant, life sentences did not have a measurable "unserved portion" under Article 65 § 2 of the Criminal Code. He argued that the starting date of his aggregate life sentence should be the date on which he had initially started to serve his life sentence. He submitted that there had been earlier instances of domestic case-law that supported this approach (making reference to a number of first- and second- instance court judgments, but without attaching the texts of any of these judgments to his observations).

37. The wording of the Criminal Code was not sufficiently clear and did not support the conclusion drawn from it by the domestic courts in the present case. The domestic courts' interpretation, moreover, had violated the principles of legislative equality and the right to physical freedom.

38. The conclusion that a conviction for a new crime interrupted the running of the 25-year minimum term (after which a life prisoner could be considered for early release) and reset it took no account of the degree of gravity of the new crime committed: it was reset by 25 years even in respect of minor offences and irrespective of what portion of the life sentence the prisoner had already served. The applicant added that considering the approach taken to resetting the 25-year minimum term and his own age, he might not *de facto* ever have the possibility of being released on parole.

39. Furthermore, the right to be considered after 25 years for release on parole depended on the duration of the criminal proceedings with respect to any new offence. In the applicant's opinion it was unfair to treat prisoners differently depending on how long it took to process their criminal cases.

40. The applicant disagreed with the Government's argument (see paragraph 49 below) that the possibility of seeking a presidential pardon (that is, clemency) rendered the life sentence *de jure* or *de facto* reducible. He

pointed out that any grounds for such a pardon were not publicly accessible and that the President's decision was not amenable to judicial review.

(b) The Government

41. The Government noted that imposition of a sentence of life imprisonment on an adult offender was not, in itself, prohibited by or incompatible with Article 3 or any other Article of the Convention, provided that it was not grossly disproportionate. No Article 3 issue could arise if, for instance, a life prisoner had the right under domestic law to be considered for release but was refused on the grounds that he or she continued to pose a danger to society. The States had a duty under the Convention to take measures for the protection of the public from violent crime, and the mere fact that a prisoner might have already served a long period of imprisonment did not weaken that positive obligation.

42. The Government stated that under domestic law, life sentences were *de jure* and *de facto* reducible; they further submitted that the criteria and conditions for release on parole were set out clearly and that the review-and-release mechanism operated effectively.

43. The Criminal Code clearly provided that a court could release a life prisoner on parole if he or she had served at least 25 years of his or her sentence. However, if a life prisoner was convicted for committing a new crime (and not a mere misdemeanour or disciplinary offence) while serving that sentence, then the starting date for serving the life sentence was to be set anew. When deciding on the possible release on parole of life prisoners, courts took into account the factors listed in Article 76 § 4 of the Criminal Code (see paragraph 16 above). That framework could not be likened to circumstances whereby no clear minimum term was set out in domestic law or if that term was *ab initio* unreasonably long.

44. As to the alleged divergence of case-law concerning the setting of the starting date for calculating the 25-year term (after which a life prisoner could be considered for early release) in the event of a life prisoner being convicted of a new crime, the Government noted that the applicant's case was the first in which the Supreme Court had been faced with the task of deciding on the starting date of a life prisoner's aggregate sentence. In any event, there was enough case-law of the lower courts applying the law in the same manner that the Supreme Court had done in the case at hand.

45. The Government submitted that five life prisoners had been released on parole over the previous 30 years; it added that there were currently 33 life prisoners in Estonia out of a total of around 1,600 convicted prisoners. However, if legitimate penological grounds for imprisonment still existed, a life prisoner would not be released.

46. The Government stressed that in the instant case the Court was not dealing with an abstract dispute over whether it was always permissible to reset the 25-year term (after which a life prisoner could be considered for

early release) if a life prisoner was convicted of a new offence while serving his or her sentence; rather, it was the individual situation of the applicant that was at the heart of the case. The question was thus that of whether resetting the 25-year term had amounted to subjecting the applicant to inhuman and degrading punishment.

47. The Government emphasised that the applicant had committed several serious crimes (including crimes that he had committed while imprisoned). This clearly indicated that his criminal behaviour had not changed during his serving of his sentence and that he continued to pose a danger to society. It must have been obvious to him that such acts would have consequences in respect of his sentence and would negatively affect his prospects for release on parole. Thus, there were penological grounds for the applicant's continued detention and it remained justified as an adequate measure by which to carry out the State's positive obligation to protect the public. His age could not be a relevant factor in deciding whether life imprisonment was *de facto* irreducible, as otherwise it would be impossible to sentence to life imprisonment anyone who was (statistically) likely to have less than 25 years to live.

48. The possibility of being released on parole was still open to the applicant. The exercise of that possibility had simply been postponed owing to his own conscious free choice to commit a new crime while incarcerated. Thus, the applicant's own behaviour had excluded him from being eligible to be considered for release on parole at an earlier date. The Government further noted that, during the term of the applicant's life imprisonment, the conditions governing the release on parole of life prisoners had become more lenient, as the 30-year minimum term had replaced by a 25-year minimum term (see paragraphs 18-20 above).

49. The Government added that in addition to the possibility of the applicant being released on parole, he was also at liberty at any time to lodge an application with the President of the Republic for clemency (see paragraph 13 above). His application would be accorded individual consideration that would take into account a variety of different factors – including the progress that he had made towards rehabilitation. The Government did not comment on the applicant's argument about the President's refusal not being subject to judicial review (see paragraph 40 above).

50. As to the applicant's reliance on the dissenting opinion of the Supreme Court judges in his case, the Government noted that that opinion had reflected the views of a minority of the justices. It had not reflected the law as it stood and continued to stand in Estonia and was thus irrelevant for the dispute before the Court.

2. The Court's assessment

(a) General principles

51. It is well-established in the Court's case-law that a State's choice of a specific criminal justice system – including sentence review and release arrangements – is in principle outside the scope of the supervision that the Court carries out at the European level, provided that the system does not contravene the principles set forth in the Convention (see *Vinter and Others v. the United Kingdom* [GC], nos. 66069/09 and 2 others, § 104, ECHR 2013 (extracts).

52. The imposition of a sentence of life imprisonment on an adult offender is not in itself prohibited by or incompatible with Article 3 or any other Article of the Convention, provided that it is not grossly disproportionate (see *Murray v. the Netherlands* [GC], no. 10511/10, § 99, 26 April 2016; see also *Vinter and Others*, cited above, §§ 102 and 108*;* and *Öcalan v. Turkey (no. 2)*, nos. 24069/03 and 3 others, § 195, 18 March 2014).

53. However, the imposition of an irreducible life sentence on an adult may raise an issue under Article 3. There are two particular but related aspects of this principle that the Court considers necessary to emphasise and to reaffirm.

54. Firstly, a life sentence does not become irreducible by the mere fact that in practice it may be served in full. No issue arises under Article 3 if a life sentence is *de jure* and *de facto* reducible (see the above-cited cases of *Murray*, § 99; and *Vinter and Others*, § 108).

55. In this respect, the Court would emphasise that no Article 3 issue could arise if, for instance, a life prisoner had the right under domestic law to be considered for release but was refused on the grounds that he or she continued to pose a danger to society. This is because States have a duty under the Convention to take measures for the protection of the public from violent crime, and the Convention does not prohibit States from subjecting a person convicted of a serious crime to an indeterminate sentence, allowing for the offender's continued detention where it is necessary for the protection of the public (see, *mutatis mutandis*, *T. v. the United Kingdom* [GC], no. 24724/94, § 97, 16 December 1999, and *V. v. the United Kingdom* [GC], no. 24888/94, § 98, ECHR 1999-IX). Indeed, preventing a criminal from re-offending is one of the "essential functions" of a prison sentence (see *Mastromatteo v. Italy* [GC], no. 37703/97, § 72, ECHR 2002-VIII, and *László Magyar v. Hungary*, no. 73593/10, § 49, 20 May 2014). This is particularly so for those convicted of murder or other serious offences against the person. The mere fact that such prisoners may have already served a long period of imprisonment does not weaken the State's positive obligation to protect the public; States may fulfil that obligation by continuing to detain such life prisoners for as long as they remain dangerous (see, *Vinter and Others*, cited above, § 108).

56. Secondly, in determining whether a life sentence in a given case can be regarded as irreducible, the Court has sought to ascertain whether a life prisoner can be said to have any prospect of release. Where national law affords the possibility of a review of a life sentence with a view to its commutation, remission or termination or to the conditional release of the prisoner, this will be sufficient to satisfy Article 3 (see the above-cited cases of *Vinter and Others*, § 109, and *László Magyar*, § 50).

57. For the foregoing reasons the Court has considered that, within the context of a life sentence, Article 3 must be interpreted as requiring reducibility of a sentence in the sense of conducting a review that allows the domestic authorities to consider whether any changes in the life prisoner are so significant, and such progress towards rehabilitation has been made in the course of the sentence as to indicate that continued detention can no longer be justified on legitimate penological grounds.

58. The Court noted in the *Vinter and Others* case (cited above, § 120) that – having regard to the margin of appreciation that must be accorded to Contracting States in the matters of criminal justice and sentencing – it is not its task to prescribe the form (executive or judicial) that such a review should take. For the same reason, it is not for the Court to determine when that review should take place.

59. Nevertheless, although the requisite review is a prospective event that takes place only after the passing of the sentence in question, a whole-life prisoner should not be obliged to wait and to serve an indeterminate number of years of his sentence before he can raise the complaint that the legal conditions attached to his sentence fail to comply with the requirements of Article 3 in this regard. This would be contrary both to legal certainty and to the general principles concerning victim status (within the meaning of that term, as set out by Article 34 of the Convention). A whole life prisoner is entitled to know, at the outset of his sentence, what he must do to be considered for release and under what conditions – including when a review of his sentence will take place or may be sought.

(b) Overview of the Court's case-law regarding the time frame for sentence reviews

60. It follows from the above-noted principles that prisoners who receive a whole life sentence are entitled to know when a review of sentence will take place or may be sought (see *Vinter and Others*, cited above, § 122, and *Hutchinson v. the United Kingdom* [GC], no. 57592/08, § 44, 17 January 2017).

61. The Court has addressed in several cases the issue of the time frame for the review of life sentences.

62. In the case of *Hutchinson v. the United Kingdom* (cited above) the Court noted that, in general, providing for the automatic review of a prisoner's sentence after a specified minimum term constituted an important

safeguard against the risk of that prisoner being detained in violation of Article 3 (see *Hutchinson*, cited above, § 67, where the Court took note of the fact that the process of review could be initiated by a prisoner at any time).

63. In general terms, the Court has noted that there is clear support in the relevant comparative and international material for a review taking place no later than 25 years after the imposition of a sentence, with periodic reviews thereafter (see the above-cited cases of *Vinter and Others*, § 120; *Hutchinson*, § 44; and *Murray*, § 99).

64. In the case of *Čačko v. Slovakia* (no. 49905/08, §§ 77-81, 22 July 2014) the Court, finding no violation of Article 3 of the Convention, observed that a judicial review mechanism rendering possible the early release (after 25 years) of whole life prisoners was introduced in January 2010 – that is to say a relatively short time after the applicant's conviction and the lodging of his application with the Court in October 2008.

65. The case of *Bodein v. France* (no. 40014/10, § 61, 13 November 2014) concerned a situation whereby French law provided a judicial review in respect of a possible sentence adjustment after 30 years' imprisonment. As regards the timing of such a judicial review, the Court noted that even though the 30-year deadline went beyond the clear international trend towards scheduling a review 25 years (at the latest) after the imposition of a life sentence, the wording of the provision of the Code of Criminal Procedure stipulating a period of at least 30 years implied that the starting point for the calculation of a whole-life term under French law included *any* deprivation of liberty – that is to say even the period spent in pre-trial detention. In the case of the applicant in *Bodein*, this meant that he became eligible for a review of his sentence 26 years after he had been sentenced to life imprisonment. Relying, *inter alia*, on the above-noted circumstances and taking into consideration the States' margin of appreciation in criminal justice and sentencing matters, the Court found no violation of the Convention.

66. However, the Court found a violation of Article 3 of the Convention in the case of *T.P. and A.T. v. Hungary* (nos. 37871/14 and 73986/14, §§ 44-48, 4 October 2016), which concerned domestic law providing for the automatic review of whole life sentences after 40 years had been served of such a sentence. The Court observed that although the States enjoyed a margin of appreciation in the area of criminal justice and sentencing, that margin could not be unlimited. It noted that "... forty years during which a prisoner must wait before he can for the first time expect to be considered for clemency is a period significantly longer than the maximum recommended time frame after which the review of a life sentence should be guaranteed, established on the basis of a consensus in comparative and international law." That period was considerably longer than the 26-year period that the applicant in *Bodein* (cited above, § 61) had had to wait before being eligible to apply for parole. Moreover, the Hungarian Government had not sought to argue that any period of the applicants' pre-trial detention would be calculated towards

the 40-year time-limit necessary in order to commence the mandatory clemency proceedings. The Court concluded that "... the fact that the applicants can hope to have their progress towards release reviewed only after they have served forty years of their life sentences is sufficient for the Court to conclude that the new Hungarian legislation does not offer *de facto* reducibility of the applicants' whole life sentences" (see also *Sándor Varga and Others v. Hungary*, nos. 39734/15 and 2 others, §§ 48-50, 17 June 2021, and *Bancsók and László Magyar v. Hungary* (no. 2), nos. 52374/15 and 53364/15, §§ 44-48, 28 October 2021).

67. In the case of *T.P. and A.T. v. Hungary* (cited above) the Court – referring to the Grand Chamber's ruling in *Vinter and Others* (cited above, § 120) – also explicitly held that it cannot adopt the same approach as in the earlier case of *Törköly v. Hungary* ((dec.), no. 4413/06, 5 April 2011). In that earlier case the Court had found the Hungarian system of reviewing life sentences after 40 years' imprisonment to be compatible with the Convention – despite the fact that after 40 years in prison the applicant would have reached the age of 75, which was shorter than his life expectancy in statistical terms (see *T.P. and A.T. v. Hungary*, cited above, § 47).

68. The case of *Medvid v. Ukraine* (no. 7453/23, § 54, 10 October 2024) concerned a situation wherein amendments to the Criminal Code that had come into force in 2023 provided the possibility for a person sentenced to life imprisonment to apply – after serving at least 15 years of the original sentence (calculated from the start of the prisoner's pre-trial detention and not from the date of the imposition of a life sentence) – for the remainder of that sentence to be commuted to a fixed term of imprisonment of between 15 and 20 years, to be served from the moment of the commutation. The period of fixed-term imprisonment could be further reduced for good behaviour. The Court found that this mechanism provided a prisoner with the hope that in the event that he or she engaged in good behaviour and showed signs of resocialisation, his or her original life sentence could be downgraded in practice to a total fixed term of imprisonment of 30 years. Furthermore, if the prisoner remained on the path of reform, he or she could expect to be released after serving 26 years and three months of his or her original sentence. In the Court's opinion, such a system provided a prisoner with a "sufficiently defined procedure" that offered a clear time frame and indicated an attempt to achieve a proper balance between the interests of the person concerned and the society to which he or she strived to return (see also *Dardanskis and Others v. Lithuania* (dec.), nos. 74452/13 and 15 others, § 26, 18 June 2019, where the domestic law provided that a life prisoner who had served at least 20 years of a life sentence could lodge an application for the remainder of that sentence to be changed to a fixed-term sentence (of between 5 and 10 years), and could lodge further applications for release on parole after serving half of that fixed-term sentence).

(c) Preliminary remarks and scope of the present case

69. In the case at hand, the applicant does not dispute the fact that a system for reviewing his life sentence existed in Estonia; nor does he complain of the nature or the scope of that review, of the substantive criteria taken into account during the review, or of the help and facilities (or lack thereof) to help him achieve rehabilitation. His complaint concerns the time frame for sentence review – specifically, the fact that under the relevant domestic law (as interpreted by the domestic courts), if a life prisoner is convicted of a new crime the running of the 25-year minimum term (after which a life prisoner could be considered for early release) shall be interrupted and set back by another 25 years.

70. Thus, the present case can be differentiated from the ones described above. It concerns the specific situation of the time frame of the (first) review of a life sentence of a prisoner who, while serving his life sentence, committed new criminal offence(s) and consequently had his sentence review postposed by twenty-five years. This is the first time the Court is called upon to adjudicate on the compliance of such a system with the Convention.

71. The Court would stress that in respect of the case at hand it does not assess whether the applicant has made sufficient progress towards rehabilitation; nor does it analyse whether sufficient penological grounds for his continued imprisonment still exist or whether he should be released. The fact that there is a possibility that a prisoner might be considered for early release is not to be equated with the obligation to grant such release. The focus of the case is strictly on analysing compliance with Article 3 of the Convention of the domestic courts' decision to reset the 25-year minimum term that the applicant must serve in the light of his having committed a new offence. The question that must be answered is whether in such circumstances and in the light of the operation of domestic law the applicant's life sentence can still be considered as *de jure* and *de facto* reducible.

(d) Compliance with Article 3 of the Convention in the present case

72. The Court agrees with the Government that in the circumstances of the present case the domestic legal framework for a review of a life sentence cannot be equated with a situation of there not being any clear time frame for first sentence review at all. Nor can it be found that the initial minimum term that a life prisoner has to serve is too long from the outset. Indeed, while the domestic law initially set the minimum prison term to be served at 30 years, it was later lowered to 25 years (see paragraphs 18-20 above), which aligns with the international trend towards establishing a special mechanism guaranteeing a first sentence review no later than 25 years after the imposition of a life sentence (see paragraph 63 above).

73. However, the Court cannot ignore the fact that – under the domestic system for calculating aggregate sentences – although the applicant had been

in prison since 1994 and had been sentenced to life imprisonment in 1996, his conviction for a further crime in 2021 set back to 2046 his first chance to have his life sentence reviewed. That is to say the first time that the applicant could apply to have his life sentence reviewed would be 50 years after being sentenced to life imprisonment and 52 years after being detained in prison. (The Government did not explicitly specify the nature of the applicant's detention between 1994 and 1996, nor whether this period counted towards the minimum term to be served before the applicant became eligible for his sentence to be reviewed.)

74. The Court recognises that the postponement of the possibility for the applicant to apply for his sentence to be reviewed was attributable to his own behaviour. Indeed, he was convicted of criminal offences while serving his life sentence not only in 2021, but also in 2004 and 2013. The applicant must have been aware that engaging in criminal behaviour while serving a life sentence could only serve to diminish his chances of early release from prison.

75. However, the Court notes that the domestic law provides not only that the applicant's criminal behaviour must be taken into account when deciding on his possible early release (paragraph 16 above); it also mandates the resetting of the 25-year minimum term that the life prisoner has to serve before becoming eligible to be considered for early release. According to the interpretation provided by the Supreme Court, the new starting date for the aggregate sentence (that is to say the sentence that combines the earlier life sentence and the sentence for the new offence) must be the date of the latest court judgment by which the applicant was convicted (see paragraph 11 above). This date, consequently, automatically appears to serve as the starting date for calculating the 25-year minimum term to be served before the prisoner can have his life sentence subjected to review with a view to his early release.

76. This system does not take any account of the time that a prisoner has already spent serving his or her life sentence; nor does it take into account the nature and severity of the new criminal offence that he or she has committed while serving that sentence. The period by which eligibility for consideration for early release is postponed is fixed at 25 years – regardless of the nature or the duration of the sentence received for the newly-committed offence. In the applicant's case his latest conviction in 2021 – for which he received a prison sentence of one year and three months – resulted in the review of his life sentence being postponed until 2046.

77. The Court notes that in such circumstances the period for which a life prisoner must wait before he or she can for the first time expect to be considered for early release is significantly longer than the maximum recommended time frame (established on the basis of a consensus in comparative and international law) after which the review of a life sentence

should be guaranteed (see paragraph 63 above; see also *T.P. and A.T. v. Hungary*, cited above, § 45).

78. The Court takes note of the applicant's arguments (which echo the opinion of the dissenting Supreme Court justices) that the domestic law is not sufficiently clear on the manner of resetting the starting date for the minimum term to be served and that earlier case-law diverges on this question (see paragraphs 36-37 above). While the Government does not deny the existence of such earlier case-law, the Court finds strength in the argument (which the applicant did not challenge) that the instant case gave the Supreme Court its first opportunity to interpret and apply the relevant domestic law in respect of life prisoners (see paragraph 44 above). It also notes, as did the Tartu Court of Appeal in respect of the applicant's case, that the Supreme Court had already in 2015 stated that Article 65 § 2 of the Criminal Code was to be understood to mean that the starting date for serving a sentence could only be the date of the latest court judgment (see paragraphs 9 and 27 above). Accordingly, the Court does not find decisive the applicant's argument that lower-instance courts had previously interpreted and applied the relevant provisions inconsistently. In the present case, the manner in which the Supreme Court interpreted the relevant domestic law cannot be considered arbitrary or manifestly unreasonable.

79. The Court does note, however, that the domestic courts appear to have applied the law in question differently at different times with respect to the applicant himself. When the applicant was convicted (while still serving his life sentence) in 2004 and 2021 for further crimes the starting date of his aggregate sentences was on both occasions reset to run from the date of his latest respective conviction (see paragraphs 6, 7, 9 and 11 above). Yet when he was convicted in 2013, it appears that the domestic courts set the starting date of his aggregate sentence at 30 January 2004 – that is to say the date on which he had been sentenced on the previous occasion. The applicant's argument (challenging the manner in which the starting date of his sentence had been set in the domestic proceedings – see paragraphs 8 and 10 above) remained unaddressed by the domestic courts. While it is not for the Court to pronounce on any errors that may possibly have been made by domestic courts when applying domestic law, it nonetheless finds that the courts' practice over the years with respect to the applicant must have rendered the mechanism of setting the starting date of an aggregate sentence (and thereby also the starting date for the 25-year term to be served in order to be considered for early release) confusing and unforeseeable for him.

80. As for the Government's argument regarding the possibility for the applicant at any time to lodge an application with the President for clemency, the Court has no reason to doubt that such applications are duly and individually considered. It observes that Article 7 of the Presidential Decree sets out general criteria that the Clemency Application Review Commission must take into account when deciding on such an application. Although the

progress that the prisoner has made towards rehabilitation is not explicitly included among those criteria, their wording is sufficiently broad (and includes a reference to the personal characteristics of prisoners who apply for clemency) as to enable, in principle, the rehabilitation factor to be taken into account. However, while the Decree sets out general criteria that the Commission must take into consideration, it does not appear that the President – who has the final say in the matter – is bound by the same criteria. Moreover, the Clemency Application Review Commission's recommendations (which are not made public) are not binding on the President. It also appears that the President is not bound to give reasons for a decision to allow or dismiss any application for clemency (see paragraphs 23-26 above). The Government did not rebut the applicant's argument that the President's refusal could not be subjected to judicial review. Noting the lack of any relevant procedural safeguards (compare *T.P. and A.T. v. Hungary*, cited above, § 49; *László Magyar*, cited above, § 57; and *Matiošaitis and Others v. Lithuania*, nos. 22662/13 and 7 others, §§ 170-171, 23 May 2017), the Court finds that the presidential clemency procedure does not constitute a remedy that would correspond to the notion of "prospect of release", as understood in its case-law.

81. In the light of the above reasoning the Court finds that the domestic mechanism by which every new criminal conviction restarts the running of the 25-year period that a life prisoner has to serve before becoming eligible to seek a review of his sentence unduly delays such a review. It is the rigid, automatic and non-individualised application of this rule, regardless of the degree of severity of the offence in question (or the corresponding punishment imposed) or the time that the person has already served in prison, that is problematic. Accordingly, the Court is not convinced that the applicants' life sentence - which he has been serving since 1996 and in respect of which he will only be able to seek a review in 2046 at the earliest - can be regarded as *de facto* reducible for the purposes of Article 3 of the Convention.

82. There has accordingly been a violation of Article 3 of the Convention.

83. In reaching this conclusion the Court notes that, in the course of the present proceedings, the applicant has not argued that, in his individual case, there are no longer any legitimate penological grounds for his continued detention. The finding of a violation under Article 3 cannot therefore be understood as affording him the prospect of imminent release.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

84. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

85. The applicant claimed compensation for the non-pecuniary damage that he had suffered but left the sum to be decided by the Court. He did not claim any compensation in respect of pecuniary damage.

86. The Government argued that in the event that the Court found a violation, that finding would in itself constitute sufficient just satisfaction.

87. The Court considers that its finding of a violation constitutes sufficient just satisfaction and accordingly makes no award under this head.

B. Costs and expenses

88. The applicant made no claim in respect of costs and expenses.

89. The Court therefore makes no award under this head.

FOR THESE REASONS, THE COURT

1. *Declares*, unanimously, the application admissible;

2. *Holds*, by five votes to two, that there has been a violation of Article 3 of the Convention;

3. *Holds*, by five votes to two, that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant.

Done in English, and notified in writing on 28 April 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Ioannis Ktistakis President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the joint separate opinion of Judges Đurovic and Sancin is annexed to this judgment.

JOINT DISSENTING OPINION OF JUDGES ĐUROVIĆ AND SANCIN

Unfortunately, we cannot agree with the majority's view in the present case. The margin of appreciation is an essential element and the main tool of the principle of subsidiarity, which constitutes the basis of the general framework for the protection of human rights set up by the European Convention on Human Rights. It gives leeway to the Contracting States to fulfil their obligations, as established by the Convention, in line with the particularities of their own legal system, society and needs, while still complying with their duties under the Convention. We are of the opinion that the issue in the present case remains within the State's margin of appreciation in matters of criminal justice and sentencing, and it is not the Court's task to determine when a prisoner, who is serving a life sentence but has been convicted of a fresh crime (and not a mere misdemeanour or disciplinary offence) while serving that sentence, can be considered for early release. This is also in line with the principle that the provisions of the Convention are to be interpreted in the light of the national law, which complies with the Court's case-law requiring Contracting States to provide prisoners who receive a whole life sentence with appropriate information on when a review of sentence will take place or may be sought (see *Vinter and Others v. the United Kingdom* [GC], nos. 66069/09 and 2 others, § 122, ECHR 2013 (extracts), and *Hutchinson v. the United Kingdom* [GC], no. 57592/08, § 44, 17 January 2017).

It is important to note that the present case is rather exceptional: very few prisoners are sentenced to life imprisonment in Estonia, in line with the recognition that such a rigid criminal sanction is to be imposed only exceptionally, for the most serious crimes, which require an appropriate response from the State and where rehabilitation of the prisoner represents a particularly challenging task.

The focus of this particular case is the period of time after which a life prisoner can be considered for early release. To start with, it is important to note that the prescribed period of 25 years in Estonia is certainly not overly long and was reduced from an initially applied period of 30 years. This revised timeframe is in accordance with the international trend towards establishing a special mechanism guaranteeing a first review of a life prisoner's sentence no later than 25 years after its imposition (see paragraph 63 of the judgment). It should be noted that this period does not mean that the applicant will automatically benefit from an early release, but just that this option becomes potentially available. Bearing in mind the severity of crimes for which life imprisonment is imposed, in the case of life prisoners, early release is not a mandatory, imposed duty but rather a possibility that is to be granted only if strict conditions have been fulfilled.

Under Estonian law, the legal framework for the review of a life sentence is clearly defined. The procedure and conditions for parole are well established and foreseeable. The fulfilment of the required conditions for early release lies fully within the control of the applicant, who must, among other things, not have committed another criminal offence while serving his or her life imprisonment sentence. The existing Estonian system is efficient in practice, as demonstrated by the fact that several persons condemned to life imprisonment have already benefited from such parole.

The applicant in the present case could not have been unaware of the fact that his criminal behaviour while serving a life sentence could only diminish his chances of early release from prison. Accordingly, the postponement of the review in the applicant's case owing to circumstances attributable entirely to him and indicating that he, even after serving many years in prison, still represented a danger to society, fell within Estonia's margin of appreciation with regard to sentence-review and release arrangements. The applicant has committed not one or two, but three serious criminal offences while serving his life sentence, including an attempted murder, for all of which he was convicted following an undisputed process.

We are convinced that a sufficient degree of certainty existed as regards the resetting of the 25-year term that the applicant has to serve before becoming eligible to be considered for early release. In that connection we note – as did the Tartu Court of Appeal in the applicant's case – that the Supreme Court already stated in 2015 that Article 65 § 2 of the Estonian Criminal Code was to be understood to mean that the starting date for serving a sentence could only be the date of the latest court judgment (see paragraphs 9 and 27 of the judgment). Furthermore, the Government raised a valid argument (which the applicant did not challenge) that the applicant's case had marked the first time that the Supreme Court had had a chance to interpret and apply the relevant domestic law with regard to the situation faced by life prisoners. This does not – in and of itself – render that law unclear. The manner in which the Supreme Court interpreted the relevant domestic law cannot be considered to have been arbitrary or manifestly unreasonable. In such circumstances, the Court should not find decisive for the outcome of the case the applicant's argument that the lower-instance courts previously interpreted and applied the relevant provisions inconsistently when setting the starting date of aggregate sentences for life prisoners.

Lastly, when deciding on the possible release on parole of life prisoners, courts in Estonia take into account the factors listed in Article 76 § 4 of its Criminal Code, and that framework cannot be likened to circumstances whereby no clear minimum term has been set out in domestic law; nor was the set term in Estonia *ab initio* unreasonably long. The finding of a violation of Article 3 in the case of the applicant, therefore, seems to suggest that the review of a life prisoner's sentence needs to be conducted 25 years after the

imposition of the (first) life sentence or shortly thereafter. This is regardless of any additional crimes committed while serving a life sentence, which would undoubtedly negatively affect the probability of release on parole given the State's positive obligation to protect the public from convicted persons who, of their own conscious and free choice, commit fresh crime(s) while incarcerated. It cannot be overlooked that it was the applicant's own behaviour that excluded him from being eligible to be considered for release on parole on the initially set date. Still requiring such an "early review" would *de facto* render this remedy only theoretical and illusory, rather than practical and effective, unnecessarily interfering with the State's margin of appreciation in matters of criminal justice and sentencing.

In view of all of the above, as the system envisaged under Estonian national law for exceptionally postponing the review for early release remains within the State's margin of appreciation, we are of the view that there has not been a violation of Article 3 of the Convention in this particular case.