



## Life sentences with only possibility of release on parole after 40 years' imprisonment are incompatible with the Convention

In today's **Chamber judgment**<sup>1</sup> in the case of **Bancsók and László Magyar (no. 2) v. Hungary** (application nos. 52374/15 and 53364/15) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 3 (prohibition of inhuman or degrading treatment)** of the European Convention on Human Rights.

The case concerned the imposition of life sentences with eligibility for release on parole only after 40 years of imprisonment.

The Court found that such sentences did not, in effect, offer any real prospect of release, and were thus not compatible with the Convention.

### Principal facts

The applicants, József Bancsók and László Magyar, are Hungarian nationals who were born in 1979 and 1960 respectively. They are serving life sentences in prison in Hungary.

Mr Bancsók (application no. 52374/15) was sentenced to life imprisonment for murder in June 2013, with eligibility for release on parole once he had served 40 years in prison. After his sentence was upheld on appeal in 2015, Mr Bancsók lodged a constitutional complaint. He argued that setting the earliest date of his release once a term of 40 years had been served was contrary to the case-law of the Court and constituted inhuman treatment. The proceedings are still pending.

Mr Magyar (application no. 53364/15) was sentenced to life imprisonment in September 2010, without eligibility for parole, under articles of the Criminal Code in force at that time. However, following the Court's judgment in *László Magyar v. Hungary* (no. 73593/10, 20 May 2014), in which a violation of Article 3 was found, his sentence was reviewed to include eligibility for release on parole after 40 years of imprisonment. Mr Magyar subsequently lodged a constitutional complaint in 2015, arguing that setting the earliest date of release once a term of 40 years had been served was contrary to Hungary's obligations under the Convention. The proceedings are still pending.

### Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicants complained that life imprisonment with a possibility of release on parole after 40 years amounted in practice to a whole life sentence and that they in effect still had no prospect of release. They alleged therefore that their sentences constituted inhuman and degrading punishment and were in breach of the Convention.

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](http://www.coe.int/t/dghl/monitoring/execution).

The applications were lodged with the European Court of Human Rights on 7 October 2015 and 20 October 2015 respectively. Given the similar subject matter, the Court examined the applications jointly in a single judgment.

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

Ksenija **Turković** (Croatia), *President*,  
 Péter **Paczolay** (Hungary),  
 Krzysztof **Wojtyczek** (Poland),  
 Alena **Poláčková** (Slovakia),  
 Gilberto **Felici** (San Marino),  
 Lorraine **Schembri Orland** (Malta),  
 Ioannis **Ktistakis** (Greece),

and also Renata **Degener**, *Section Registrar*.

## Decision of the Court

### Article 3

The Court dismissed the Government's objection concerning the non-exhaustion of domestic remedies, noting that both sets of proceedings before the Constitutional Court had been pending since 2015, which undermined the potential effectiveness of that remedy in their cases.

It reiterated that a life sentence could be compatible with the Convention only if there was both a prospect of release and a possibility of review from the outset. The Court had already held that where domestic law did not provide for the possibility of such a review, a whole life sentence did not measure up to the standards of Article 3 of the Convention.

Moreover, comparative and international-law material showed clear support for the institution of a dedicated mechanism guaranteeing a review no later than 25 years after the imposition of a life sentence, with further periodic reviews thereafter. It noted that the 40 years during which the applicants would have to wait before they could expect to begin to be considered for release on parole was significantly longer than the maximum recommended time frame. It therefore concluded that their sentences did not, in effect, offer any real prospect of release, and were thus not compatible with the Convention.

There had accordingly been a violation of Article 3.

### Just satisfaction (Article 41)

The Court held that Hungary was to pay Mr Bancsók 3,000 euros (EUR) and Mr Magyar EUR 10,600 in respect of costs and expenses. The finding of a violation constituted in itself just satisfaction for any non-pecuniary damage sustained.

*The judgment is available only in English.*

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**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.