

Remedy for cramped conditions of detention ineffective for whole life sentence prisoner with no prospect of receiving compensation

The case of [Ottlakán v. Hungary](#) (application no. 17201/23) concerned Mr Ottlakán's complaint that he had not been able to access compensation awarded to him for cramped conditions of detention, because of legislation that had entered into force in 2021. Under that legislation such compensation is set aside in a holding account (administered by the prison) until the prisoner's release.

In today's **Chamber judgment**¹ in the case the European Court of Human Rights held, unanimously, that there had been a **violation of Article 13 (right to an effective remedy) read in conjunction with Article 3 (prohibition of inhuman or degrading treatment)** of the European Convention on Human Rights.

The Court found, in particular, that since there was no review mechanism of Mr Ottlakán's whole life sentence which could genuinely lead to his release, he had no prospect of receiving the compensation. Therefore, making Mr Ottlakán's release a condition for its payment to him went against the principle of promptness that was required for a remedy to be effective within the meaning of Article 13.

Principal facts

The applicant, József Ottlakán, is a Hungarian national who was born in 1973 and is detained in Szeged prison (Hungary), where he is serving a life sentence without the possibility of parole. In [Pápics and Others v. Hungary](#), the Court found that Mr Ottlakán had no prospect of release.

In October 2020 Mr Ottlakán was awarded compensation in *Domján* proceedings (see [Domján v. Hungary \(dec.\)](#)), a remedy introduced in 2017 to address inadequate conditions of detention in Hungary. The payment of that compensation was initially suspended by law until 31 December 2020. As of 1 January 2021, section 133(4a) of the Execution of Punishments Act set out an obligation to put such compensation in a holding account until the prisoner's release. The alleged aim being to assist in prisoners' reintegration. Accordingly, the compensation awarded to Mr Ottlakán was paid into his holding account, where it has been ever since.

In 2022 the Constitutional Court dismissed a complaint lodged by Mr Ottlakán challenging the constitutionality of section 133(4a), finding that he lacked victim status as he had not asked the prison governor to authorise the payment of the compensation to him on exceptional grounds.

Complaints, procedure and composition of the Court

Relying on Article 13 (right to an effective remedy) read in conjunction with Article 3 (prohibition of inhuman or degrading treatment), the applicant complained that his grievances concerning inhuman conditions of detention had not been remedied on account of his inability to access the compensation which he had been awarded.

The application was lodged with the European Court of Human Rights on 13 April 2023.

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.

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

Arnfinn Bårdsen (Norway), *President*,
Jovan Ilievski (North Macedonia),
Péter Paczolay (Hungary),
Oddný Mjöll Arnardóttir (Iceland),
Stéphane Pisani (Luxembourg),
Juha Lavapuro (Finland),
Hugh Mercer (the United Kingdom),

and also Andrea Tamietti, *Section Registrar*.

Decision of the Court

The Court noted that Mr Ottlakán, a whole life prisoner, had made successful use of the *Domján* remedy, obtaining compensation of approximately 1,500 euros for the inhuman conditions of detention to which he had been submitted for 488 days. However, the payment of the compensation in question had been initially suspended and later paid into his holding account. It had been there ever since.

Given that Mr Ottlakán had no prospect of release, the Court concluded that he had no prospect of receiving the compensation, making the alleged purpose of reintegration meaningless. Asking the prison governor to release his compensation to him was also not a viable legal avenue as the parties did not rely on the presence of exceptional grounds in Mr Ottlakán's case. In the context of complaints concerning conditions of detention, monetary compensation had to be accessible to an inmate as part of a compensatory remedy. In addition, a compensatory remedy had to be available to an aggrieved individual without undue delay, and the compensation had to be paid promptly. While the Court accepted that the authorities might need time in which to make a payment, that period should not generally exceed six months from the date on which the decision awarding compensation became enforceable.

Therefore, the Court held that making Mr Ottlakán's release a condition for the disbursement of his compensation went against the principle of promptness that was required for a remedy to be effective within the meaning of Article 13. It followed that the *Domján* remedy could not be regarded as effective, in his case, on account of the obligation to set aside the compensation until his release.

There had therefore been a violation of Article 13 taken in conjunction with Article 3.

Just satisfaction (Article 41)

The Court held that Hungary was to pay the applicant 1,500 euros (EUR) in respect of pecuniary damage and EUR 5,000 in respect of costs and expenses.

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.