

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES



Contact: John Darcy
Tel: 03 88 41 31 56

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Meeting: 1318th meeting (June 2018) (DH)

Item reference: Action plan (29/03/2018)

Communication from Hungary concerning the case of LASZLO MAGYAR v. Hungary (Application No. 73593/10)

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Réunion : 1318^e réunion (juin 2018) (DH)

Référence du point : Plan d'action

Communication de la Hongrie concernant l'affaire LASZLO MAGYAR c. Hongrie (Requête n° 73593/10)
(anglais uniquement)

Group Action Plan of 27 March 2018
in the cases of
László Magyar v. Hungary (Appl. No. 73593/10, judgment of 20/05/2014) and
T.P. and A.T. v Hungary (Appl. Nos. 37871/14 and 73986/14, judgment of 4 October
2016)

Introductory case summary

The Court found that the applicants' life sentence could not be regarded to be reducible under Hungarian law, for the purposes of Article 3 of the Convention. [Violation of Article 3]

Furthermore, in the case of Magyar v. Hungary, the Court found that the length of the criminal proceedings against the applicant was excessive [Violation of Article 6 § 1]

I. Payment of just satisfaction and individual measures

In the case of **Magyar v. Hungary**, the judgment became final on 13 October 2014. Just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant on account of the violation of Article 6 (EUR 2,000) as well as in respect of costs and expenses (EUR 4,150) was paid to the applicant on 20 November 2014 (amount paid: HUF 1,875,074; exchange rate: 304.89).

The Court noted (in § 59 of the judgment) that the finding of a violation under Article 3 cannot be understood as giving the applicant the prospect of imminent release.

Upon the petition for review submitted by the Attorney General to the Kúria in accordance with Section 416 § 1 of the Criminal Code (governing re-opening pursuant to a judgment of the ECtHR), the Kúria mitigated the applicant's whole life sentence and decided on 11 June 2015, taking into account the Court's decision in *Törköly v. Hungary* ((dec.), no. 4413/06, 5 April 2011), that the applicant would become eligible for parole after 40 years of his life sentence will have been served (including pre-trial detention). The applicant's subsequent constitutional complaint is pending before the Constitutional Court.

In the case of **T.P. and A.T. v. Hungary**, the judgment became final on 6 March 2017. Just satisfaction awarded in respect of costs and expenses (EUR 1,500 to each of the applicants) was paid on 1 June 2017 (amount paid: HUF 461,520, each; exchange rate: 307.68). As regards non-pecuniary damage, the Court considered that the finding of a violation constituted sufficient just satisfaction for any non-pecuniary damage suffered by the applicants and accordingly made no award under this head.

Pursuant to the petition for review submitted by the Attorney General to the Kúria in accordance with Section 416 § 1 of the Criminal Code (governing re-opening pursuant to a judgment of the ECtHR), the Kúria decided, having regard to its decision of uniformity of law no. 3/2015 BJE of 1 July 2015, that the issue of release on parole pertained to the field of enforcement of criminal sentences and thus the deficiencies found by the Court did not affect the lawfulness of the applicants' sentences under the rules of the Criminal Code. Accordingly, the applicants' sentences of whole life imprisonment were upheld.

II. General measures

Pursuant to the Court's judgment in the case of *Magyar v. Hungary*, on 18 November 2014 the Hungarian Parliament adopted Act no. LXXII of 2014 introducing "Mandatory pardon proceedings for prisoners serving life sentence without the possibility of parole" providing for a special pardon procedure to be carried out *ex officio* after the prisoner has served 40 years of his sentence. A Pardon Committee composed of five judges of the Curia (the supreme court of Hungary) is to assess the necessity of and justification for the continued detention of the prisoner and the final decision is to be taken by the President of Hungary within his discretionary powers. If the life prisoner is not granted pardon, the proceedings shall be repeated in every two years.

In the *Magyar* judgment the Court has stated that the mechanism of the review should guarantee the examination in every particular case of whether continued detention is justified on legitimate penological grounds and should enable whole life prisoners to foresee, with some degree of precision, what they must do to be considered for release and under what conditions. While the 2015 amendment complied with this requirement, in the case of *T.P. and A.T. v. Hungary* the Court established further requirements as regards procedural safeguards and the minimum waiting period (40 years) for eligibility for conditional release which had been found to be in conformity with the Convention in the case of *Törköly v. Hungary* was now found to be excessive. These new requirements raised or left open a series of questions in respect of the consistency of the Court's jurisprudence and the inner coherence of the system of punishments under Hungarian law which made the swift implementation of the judgment impossible. These issues will have to be clarified by the Court in the cases of *Sándor Varga v. Hungary* (no. 39734/15) and *Kruchió v. Hungary* (no. 43444/15) **pending before the Court** (communicated on 19 December 2017).

Furthermore, constitutional complaint proceedings are pending before the Constitutional Court, including by the applicant in the *Magyar* case and the applicant in the *Varga* case, the outcome of which needs to be awaited before adequate legislative measures can be taken.

The judgments have been published on the website of the Government (see: <http://igazsagugyiinformaciok.kormany.hu/az-emberi-jogok-europai-birosaganak-iteletei>) and were sent to the Attorney General.

III. Conclusions of the respondent state

The Government will submit an update to this Action Plan after the Court's decision in the relevant cases pending before it will have been delivered.

Budapest, 27 March 2018



Zoltán Tallódi
Agent for the Government of Hungary