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Date: 10/12/2024

DH-DD(2024)1433

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Meeting: 1521st meeting (March 2025) (DH)

Item reference: Action Report (04/12/2024)

Communication from Hungary concerning the group of cases of Istvan Gabor Kovacs (Application No. 15707/10) and Varga v. Hungary (Application No. 14097/12)

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Réunion : 1521^e réunion (mars 2025) (DH)

Référence du point : Bilan d'action (04/12/2024)

Communication de la Hongrie concernant le groupe d'affaires Istvan Gabor Kovacs (requête n° 15707/10) et Varga c. Hongrie (requête n° 14097/12) (**anglais uniquement**)

DGI

04 DEC. 2024

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Revised Action Report of 4 December 2024

Varga and Others v. Hungary and István Gábor Kovács group v. Hungary

List of applications concerned:

Varga and Others v. Hungary (Appl. No. 14097/12, final on 10/06/2015)

István Gábor Kovács v. Hungary (Appl. No. 15707/10, final on 17/04/2012)

Engel v. Hungary (Appl. No. 46857/06, final on 20/08/2010)

Csüllög v. Hungary (Appl. No. 30042/08, final on 07/09/2011)

Juhász and Others v. Hungary (Appl. No. 6467/13, final on 07/01/2016)

Magyar and Others v. Hungary (Appl. No. 16599/12, final on 07/01/2016)

Introductory case summary

1. This group of cases concerns inhuman and/or degrading treatment due to the applicants' poor conditions of detention (both pre-trial and post-conviction) resulting mainly from a structural problem of overcrowding in Hungarian prisons (violations of Article 3), and lack of effective preventive and compensatory remedies in this respect (violations of Article 13 read in conjunction with Article 3).
2. In view of the scale of the problem, the European Court delivered a pilot judgment in the *Varga and Others* case, finding that the violations in this case and in previous cases resulted from a structural problem of overcrowding and poor material conditions of detention (§ 99).
3. Other violations were also found in this group of cases: degrading treatment of a paraplegic applicant due to his detention under unsuitable conditions and a special security regime (violation of Article 3 in the case of *Engel*); inhuman and degrading treatment due to the conditions of detention under a special security regime for an extended period of time and lack of an effective remedy to challenge the security classification (violations of Article 3 and of Article 13 read in conjunction with Article 3 in *Csüllög*); disproportionate statutory restrictions on family visits during pre-trial detention (violations of Article 8 in *István Gábor Kovács*).

I. Individual measures

Just Satisfaction

4. In the case of *István Gábor Kovács v. Hungary*, the just satisfaction awarded to the applicant in respect of non-pecuniary damage EUR 10,000 and in respect of costs and expenses EUR 1,500, converted to HUF 3,309,815 (1 €= 287.81) and paid to the applicant on 11 June 2012.

5. In the case of *Engel v. Hungary*, the just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant EUR 12,000, as well as in respect of costs and expenses (EUR 2,680) was paid to the applicant on 28 September 2010 (amount paid: 4,385,290 HUF; exchange rate: 277.55).
6. In the case of *Visztné Zambó*, the just satisfaction awarded to the applicant in respect of pecuniary damage EUR 5,000; and in respect of costs and expenses EUR 3,600 (1 € = 380,59 HUF), was altogether converted to HUF 3,273,074 and paid in due time, on 15 December 2023.

Varga and others v. Hungary:

7. In the case of *Lajos Varga v. Hungary*, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (EUR 5,000) as well as in respect of costs and expenses (EUR 3,000) was paid to the applicant on 23 September 2015 (amount paid: HUF 2,481,120; exchange rate: 310.14).
8. In the case of *Tamás Zsolt Lakatos v. Hungary*, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (EUR 14,000) as well as in respect of costs and expenses (EUR 3,000) was paid to the applicant on 3 September 2015 (amount paid: HUF 4,354,660; exchange rate: 314.98).
9. In the case of *Gábor Tóth v. Hungary*, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (EUR 14,000) as well as in respect of costs and expenses (EUR 3,000) was paid to the applicant on 3 September 2015 (amount paid: 4,354,660 HUF; exchange rate: 314.98).
10. In the case of *László Pesti v. Hungary*, the just satisfaction awarded, in respect of non-pecuniary damage (EUR 3,400) and in respect of costs and expenses (EUR 2,000) was placed in a judicial deposit on 09 September 2015 (amount paid: 1.690.254 HUF; exchange rate: 313.01). The applicant's representative was informed about the deposit.
11. In the case of *Attila Fakó v. Hungary*, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (11,500 EUR) as well as in respect of costs and expenses (1,000 EUR) was paid to the applicant on 3 September 2015 (amount paid: 3,937,250 HUF; exchange rate: 314.98).
12. In the case of *Gábor Kapczár v. Hungary*, just satisfaction awarded in respect of non-pecuniary damage sustained by the applicant (26,000 EUR) as well as in respect of costs and expenses (150 EUR) was paid to the applicant on 3 September 2015 (amount paid: 8,236,727 HUF; exchange rate: 314.98).

Other cases:

13. In the cases of *Péter András Nyerges v. Hungary* (31957/13) and *László Juhász v. Hungary* (57386/13), on 27 January 2016 and 11. and 17. March 2016 letters were sent to the applicants in order to collect their bank account number for the payment. The applicants did not reply.

II. General measures

14. The Government wish to highlight that similar issues concerning Hungary have not arisen before the European Court of Human Rights.

1. Statistical data concerning the status of overcrowding

15. As of 31 December 2023, the registered number of inmates was below 100%, with 17 939 people registered in 17 998 places.
16. The situation in the first half of the year 2024, shows the headcount of 18 528 people in 17 998 places, corresponding to a 102.94% occupancy rate.
17. The opening of a new prison institute in Csenger will make available additional 1 500 places, which may be sufficient to maintain occupancy rates below 100%.

2. Compensation

18. There has been no backtracking on preventive complaints in the context of compensation, given that in most cases the circumstances leading to compensation is resolved as soon as possible, and the exceptional case of someone being placed in overcrowded accommodation lasts on average only 14.44 days.

3. Alternatives to imprisonment

19. Reintegration custody has been introduced from 1 April 2015 into the Act CCXL of 2013 on *the execution of punishments, criminal measures, certain coercive measures and confinement for administrative offences* (hereinafter referred to as the Prison Code), which – in addition to achieving the objective of imprisonment – aims to enhance reintegration into society. The conditions of application this legal institution are laid down in Section 187/A, and its grounds for exclusion are laid down in Section 187/C of the Prison Code.
20. Based on the data of 31 July 2024, 296 prisoners are placed in reintegration custody simultaneously – in the case of 173 of them it was the prison institute that recommended the use of this legal instrument. Based on the registry, the most common crimes are drug trafficking or possession (72 ppl), fraud (32 ppl) and budget fraud (31 ppl), while in the case of 3 inmates, the length of their sentences were less than 1 year.

21. Based on research, the correctional judges of the courts responsible for the given Regions¹ follow divergent practices when authorising reintegration custody. In terms of the number of cases authorised, the highest results are observed in regions II. (68%) and IV. (66.6%), while the lowest figures are observed in region III. (37.9%). It is detectable at the practice of the tribunals in the last six months, that in case of 5 prison institutes (Vác Strict and Medium Regime Prison, Heves County Remand Prison, Békés County Remand Prison, Somogy County Remand Prison, Zala County Remand Prison), 100% of the applications for reintegration custody are approved.
22. Decree No 6/2023 (II. 21.) of the Minister of Justice *on the different application of certain rules on the execution of sentences during a state of emergency* (hereinafter referred to as the Decree) introduced the home-care detention, with the aim to ensure that prisoners with a chronic illness, regardless of the level of execution and the offence committed – with the exception of violent multiple offenders and those sentenced to life imprisonment – can serve the remainder of their sentences in their homes with the use of electronic monitoring devices. The legal instrument is available from the third month of the chronic illness, with a specialist's opinion from the general practitioner of the prison.
23. Since the entry into force of the Decree, a total of 353 applications for home-care detention have been submitted by convicted persons, of which 264 is with legally binding decision and 89 have not yet received a final decision. With regards to the legally binding judgments, the responsible judges rejected a total of 219 applications and terminated proceedings in 12 cases. Currently 19 prisoners are placed in home-care detention.
24. An examination of the high rate of rejections has shown that prisoners often submit their applications on the grounds of an illness which do not meet the criteria laid down in the Decree, i.e. they are capable of self-sufficiency without assistance.

4. Conditions for prisoners with disabilities

24. In the past year, the prison service has doubled the number of accessible accommodation facilities and has plans to develop more. These special accommodations have been or will be designed to meet the needs not only of prisoners with reduced mobility but also of those with hearing or visual impairments.
25. In addition to the 51 places previously provided for prisoners with disabilities in 11 prisons, a further 53 places have been provided in 5 prisons, so that all Regions can provide accommodation. Currently there are 123 prisoners with reduced mobility, 32 of whom are in the Medical Centre of the Prison Service, meaning only 91 persons are actually accommodated in a prison institution, which means that the available capacity is sufficient.

¹ The responsibility areas and further information of each Region can be found on the following link: <https://bv.gov.hu/hu/node/5578>

26. The Prison Service provides health and psychological care for prisoners in each of its establishments, including specialist care for prisoners with physical disabilities and the support that can be provided by the additional helping professions.

6. Training of the judges

27. Training courses for penitentiary judges on reintegration custody as an alternative to imprisonment have been annually organised by the National Office for the Judiciary since 2016. The training courses cover mainly practical issues related to the ordering and termination of reintegration custody and the case law of the Court.

7. Publication and dissemination

28. The ECtHR's judgments were translated and published on the website of the Ministry of Justice. (<https://igazsagugyiinformaciok.kormany.hu/az-emberi-jogok-europai-birosaganak-iteletei>). The relevant authorities were informed about the cases as well.

III. Conclusions of the respondent state

29. The Government consider that the measures adopted have remedied the consequences for the applicants of the violation of the Convention found by the Court in these cases, and that Hungary has thus complied with its obligations under Article 46, Paragraph 1 of the Convention.

Budapest, 4 December 2024

Zoltán Tallódi
Agent of the Government of Hungary