

**Resolution
2351 of 1995 (22 November)
of the Government**

**on the measures to be taken on the basis of the report
of the European Committee for the Prevention of Torture
and Inhuman or Degrading Treatment or Punishment
of the Council of Europe**

The Government

1. approves the information of the Minister of Justice and of the Minister of the Interior on the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visit to Hungary and on the measures to be taken;

2. calls on the Minister of Justice and the Minister of the Interior to forward their observations on behalf of the Government of Hungary to the Committee and seek its approval to the publication of the report and the observations;

Responsible: Minister of Justice
 Minister of the Interior

Deadline: 20 December 1995

3. calls on the Minister of Justice and the Minister of the Interior to draw up, under the terms of Article 10 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and in accordance with the request of the Committee, an interim report and a follow-up report on the implementation of the comments and recommendations of the Committee, and to forward them to the Committee.

Responsible: Minister of Justice
 Minister of the Interior

Deadline: interim report: 31 January 1996
 follow-up report: 31 July 1996

Gyula Horn
Prime Minister

**COMMENTS OF THE HUNGARIAN GOVERNMENT
TO THE REPORT OF THE EUROPEAN COMMITTEE
FOR THE PREVENTION OF TORTURE AND INHUMAN
OR DEGRADING TREATMENT OR PUNISHMENT (CPT)
ON ITS VISIT TO HUNGARY
FROM 1 TO 14 NOVEMBER 1994**

(transmitted by letter of 14 December 1995)

Comments of the Hungarian Government

**to the Report of the European Committee for the Prevention of Torture
and Inhuman or Degrading Treatment or Punishment
on its visit to Hungary from 1 to 14 November 1994**

The Government of the Republic of Hungary has discussed the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visit to Hungary in 1994, and has taken a decision on the measures to be taken based on the Report.

The Government has noted with satisfaction that the discussions with the Hungarian authorities were conducted in the spirit of mutual co-operation and that, in the view of the Committee, both the experts appointed from the ministries and the leading officials of the institutions visited offered commendable support to the delegation during the visit.

The Hungarian Government agrees with most of the findings of the CPT Report, accepts the recommendations regarding the tasks to be implemented, and is willing to provide the information requested.

The Hungarian Government is of the opinion that the Hungarian legal system has been appropriately upgraded in the areas examined and that the relevant legal material is now in accordance with European norms. In the framework of the transformation of the legal system commenced in 1990,

Hungary acceded to several international agreements and created a number of legal instruments that have some effects on the rights of persons deprived of their liberty or define the conditions and constraints of exercising their rights.

The most important of these are as follows:

- Act XXXI of 1993 promulgating the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November, 1950 with the eight Protocols thereto;
- Act XXXII of 1993 amending Statutory Rule No. 11 of 1979 on the Execution of Punishments and Penal Measures;
- Act LXXXVI of 1993 regulating the rights and procedures concerning the entry, stay and immigration of foreigners into Hungary, including rules regarding the illegal stay and custody of aliens;
- Amendments to the Criminal Code and to the Act on Criminal Procedure;
- Act XXXIV of 1994 on the Police granting safeguards for exercising the rights of detainees;
- Act III of 1995 promulgating the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment adopted on 26 November, 1987;
- the Hungarian Parliament is currently considering a draft bill on the structure of the prison administration;

- a draft bill regulating the status of the professional staff (concerning both the staff of the police and the staff of the prison system);
- a decree of the Minister of the Interior (with the consent of the Minister of Justice and the Chief Public Prosecutor) regulating the functioning of the detention facilities of the police is soon to be proclaimed;
- a decree on the implementation of Act XXXII of 1993 on the Execution of Punishments and Penal Measures (a Decree of the Minister of the Justice) is under preparation;
- a decree on police investigations in criminal cases regulating, among others, police interrogation procedures.

The Government's position is that the scheduling and pace of updating the legal framework is appropriate and the Republic of Hungary is currently in possession of the adequate legal instruments meeting the European standards.

At the same time the Government wishes to point out that a significant part of the conditions criticised by the Committee is due to the now obsolete institutional framework brought about at the turn of the century, the low-level infrastructure and the limited development resources. The resolution of these problems and the improvement of material conditions can only be realised gradually, in proportion with the economic capabilities of the country and of the budget.

The Government, based on the statements of the CPT Report, wishes to provide information on the measures taken so far, complemented with

comments relating to the areas under the authority of the ministries concerned:

MINISTRY OF JUSTICE

1. The Ministry highly appreciates the statement made in paragraph 153 of the Report, according to which the Committee heard no allegations of torture or inhuman treatment of inmates.

It also finds it noteworthy that the Committee gave a positive evaluation of the good relations between staff and detainees and of efficient prison management.

2. In 1995, taking into account the findings of the Committee and having completed a comprehensive review of the operational conditions of the penitentiary system, the Minister of Justice submitted his proposals to the Government regarding the state of the prison system and the prison administration, the development of the prison system, the treatment of offenders, the operation of economic establishments offering them employment, the fluctuation, training and living standards of the prison staff. As a result, the Government decided to establish a 600-person remand prison to lessen overcrowding. This additional capacity is to decrease the occupancy rate at Budapest Remand Prison and to open up ways for more differentiated treatment of offenders.

Also, the Government reached an agreement that a long-term development plan for penal institutions should be drawn up by the spring of 1996. A very significant consideration of this concept is to

avoid, by all possible means, the separation of inmates from their families, local communities and working environment.

As part of the development of the institutional framework an independent institution offering basic and medium-level training for the prison staff is to be put into operation in the near future. In accordance with the Government's decision the prison staff directly involved in the treatment of inmates is to be increased in number from 1996. This measure opens the way for the application of more balanced treatment regimes and creates the personal preconditions of opening the recently built half-open prison attachment in the town of Kecskemét. And finally, through annual central grants, the Government wishes to contribute to the better functioning of economic enterprises that offer employment to prisoners.

3. In pursuance of paragraphs 135 and 138 of the CPT Report the National Prison Administration has initiated:
 - a review of the effective regulations regarding treatment of offenders held in special security sections and of dangerous prisoners;
 - a revision of complaint procedures and regulations in relation with correspondence.
4. The leading officials of the Ministry fully identify themselves with the recommendations regarding the employment of prisoners and the need for purposeful activities, bearing in mind the remarks set out in paragraph 154 of the Report. In this context it should be noted, however, that employment for remand prisoners is only optional and, in their case, it cannot be made compulsory.

5. The Ministry's leadership finds it noteworthy that paragraph 155 of the Report described the material conditions of detention, the library and the sports facilities at Tököl Prison and Remand Centre for Adolescents to be of good quality, and the multi-vocational training and socio-therapeutic programmes for young offenders to be of correct orientation.

The leading officials of the Ministry fully agree that the range of vocational training programmes should be broadened. With this goal in mind a joint programme with the Ministry of Labour and the regional employment centres has been recently worked out to expand forms of vocational training with a view to the actual needs of employers.

6. The Ministry of Justice has noted with satisfaction that according to the Report (paragraph 156) health care equipment is of good standard and health care network is acceptable. The Ministry also supports the recommendations concerning the need for improved information on health care and confidential treatment of health-related complaints of prisoners.

The Ministry of Justice has also carefully considered other issues addressed in the recommendations and comments of the Committee concerning prison staff training, catering of inmates, conditions at kitchen facilities, maintenance of outside links, disciplinary measures and segregation, complaint procedures, and has given the appropriate instructions to work out the necessary remedies. The Ministry will compile reports on their implementation and provide the information asked for in the requested manner and time.

MINISTRY OF THE INTERIOR

1. The Government, with a view to the requirements of Hungarian legal provisions and with the intention of implementing international obligations as fully as possible, has placed the issue of improving the conditions of detention facilities of the police several times on its agenda.

In 1994, considering tasks in relation with the improvement of public security, the Government took a decision to give priority, among others, to building new police cells and renovating existing ones.

In 1995 the Government passed a resolution, concerning several ministries, to draw up a schedule for the necessary measures to improve the material conditions of detention in police facilities.

2. The leaders of the Ministry of the Interior and the Police, to some extent due to the Committee's visit, initiated a number of measures to eliminate the problems related to the conditions of detention that were criticised by the Committee as well:
 - (a) The Community Hostel of the Kerepestarcsa Police Regiment, used to accommodate foreigners staying illegally in Hungary, has been closed down and measures have been taken to find other appropriate accommodation for illegal aliens;
 - (b) Police leaders issued written instructions defining tasks for the police force to ensure compliance with rules regulating the rights of detainees; they also prescribed more emphasis to be put on the instruction of the provisions of the Convention and of the recommendations of the Council of Europe. It should be noted that

these topics have been an integral part of the curriculum for police training establishments for years;

- (c) The Police have taken out of service the police cells, including the police cells at 8th District Police Station, that are not suitable for the basic requirements of detention;
 - (d) Within budgetary possibilities the refurbishment of police detention facilities is going on.
3. The Ministry of the Interior has noted with satisfaction that the Committee found no evidence of torture of persons held in police establishments and heard no allegations of this kind.

The leadership of the Ministry agrees with the general statement of the Committee that policemen, when effecting deprivation of liberty or when dealing with detainees, should apply no more force than is reasonably necessary.

The Ministry of the Interior does not wish to challenge the fact that the Committee may have got hold of information indicating that some detainees suffered bodily harm during police procedures. The Committee made a statement of fact when admitting that such injuries may have been received during lawful procedures as well.

The position of the Ministry of the Interior is that the Committee's information referring to injuries is not sufficient to make a legally substantiated claim that persons taken into custody by Budapest police are (in general) in danger of physical ill-treatment.

Hungarian law, as the Committee's Report concedes, contains appropriate provisions for an unbiased investigation into cases of ill-treatment by public officials such as the police and also for their penalisation.

4. In accordance with the request of the Committee the Ministry of the Interior will provide information in relation with detention, complaints of ill-treatment and sanctions imposed on these grounds for the years 1993-94.
5. As regards the Committee's recommendation to accommodate detainees on remand (persons under detention on remand) in prison establishments instead of police holding facilities, the Ministry of the Interior maintains the position that a decision on such an arrangement could be made only in the framework of an overall reform of the whole criminal justice system. Apart from the legal obstacles to implement this recommendation we also lack the necessary material preconditions.

The Ministry of the Interior accepts it as a factual statement when the Committee claimed that police cells were not suitable to offer out-of-cell free-time activities for offenders during their detention. Rules on police cells, however, make it possible for detainees to have objects (radio, television, books, periodicals) with them that may contribute to making the time they spend in custody more meaningful.

6. The Ministry of the Interior agrees that safeguards are needed to guarantee the rights of detainees as expressed by the Committee (paragraph 148 of the Report). The Ministry is of the opinion that the law on police procedures ensures the functioning of these safeguards.

The ministerial decree on the detention facilities of the police, drawn up in accordance with the act in force, adequately regulate the rights and obligations of detainees with respect to information on the right to defence, health care and accommodation, and a controllable registration of documents about detainees created during the period of detention.

7. The Ministry of the Interior thinks that the Committee's comments on the conditions of detention and accommodation at detention facilities of the police are substantiated and accepts them as such. In view of the material and financial possibilities, however, the Ministry sees chances for significant improvement only in the long run, even with the increased support of the Government.

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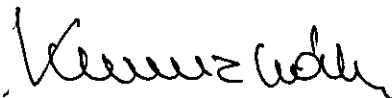
The Chief Public Prosecutor of the Republic of Hungary has issued a circular based on the relevant comments of the Committee. In it he drew the attention of public prosecutors to the consistent implementation of the provisions prohibiting torture, inhuman or degrading treatment or punishment, to the necessity of immediate measures in cases of shortcomings and to the obligation of filing reports about such cases.

The Government is convinced that the Republic of Hungary will meet the requirements set out in the CPT Report as a result of the measures taken or initiated by the Minister of Justice, the Minister of Interior and the Chief Public Prosecutor. As requested, an interim report will have been drawn up by 31 January, 1996 and a follow-up report by 30 June, 1996 providing information on the measures taken and to be taken.

The Government of the Republic of Hungary requests the Committee to publish its Report, together with the comments of the Government, in accordance with Article 11 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The Government wishes to publish the CPT Report together with its resolution based on it, and with the comments forwarded to the Committee.

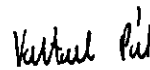
The Ministry of Justice and the Ministry of the Interior, again, wish to express their gratitude to the Committee for its help, through its factual investigation, report and recommendations, to enhance their efforts to improve conditions of detention and to become more and more in line with the spirit of the Convention.

14 December 1995



Gábor Kuncze

Minister of the Interior



Dr. Pál Vastagh

Minister of Justice