

HUMAN RIGHTS COMPLIANT CRIMINAL  
JUSTICE SYSTEM IN UKRAINE

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**Expert assessment of certain provisions of the Draft Laws of Ukraine No. 4048 and No. 4049 with regards to the amendments of the Criminal Code, Criminal Executive Code and Criminal Procedure Code initiated for the purpose of the execution of the ECtHR judgement *Petukhov (No. 2) v. Ukraine***

These expert comments prepared  
under the auspices of the Council of Europe Project  
*“Human Rights Compliant Criminal Justice System in Ukraine”*

*on the basis of the expertise by George Tugushi, international consultant of the Council of Europe*

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## Introduction

This legal analysis was prepared in the framework of the Council of Europe Project “Human Rights Compliant Criminal Justice System in Ukraine”.<sup>1</sup>

For the purpose of this document the consultant analysed draft laws nos. 4048 and 4049 on the amendments of the Administrative Code, Criminal Code, Criminal Executive Code and Criminal Procedure Code initiated in the view of the execution of the European Court of Human Rights (hereinafter, the ECtHR) judgments, more specifically the provisions which refer to the proposed mechanism of early release for life sentenced prisoners in Ukraine based on the judgement *Petukhov (No. 2) v. Ukraine*, in order to assess whether this mechanism is effective and in line with the European Convention on Human Rights and Fundamental Freedoms (hereinafter, the Convention) and other Council of Europe existing standards, recommendations and best practices.

In the course of the analysis the consultant reviewed relevant reports of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment and Punishment (hereinafter, the CPT), related ECtHR jurisprudence, legislation of a few European countries, as well as set of standards, both on European and universal levels, on the availability of the mechanisms for the early release of lifers.

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<sup>1</sup> The opinions expressed in this work are the responsibility of the author and do not necessarily reflect the official position/policy of the Council of Europe

## Executive summary

It goes without saying that the proposed amendments to the legislation of Ukraine, with the aim of the execution of the ECtHR judgement *Petukhov (No. 2) v. Ukraine* should be considered as a step into the right direction. Proposed changes should provide life sentenced prisoners with more realistic prospects for rehabilitation and access to the mechanism to be released on parole. However, the proposed changes still raise some concerns and should be revised in the light of the best practices in Europe.

Preferably, lifers should be granted direct access to the mechanism for being released on parole after serving certain years in prison. The Law should not require change of a life sentence to a fixed term one to make prisoners eligible to apply for being released on parole.

Lifers should be able to challenge decisions made by the court at a higher instance judicial authority.

Legislation and prison system practice should provide lifers access to adequate regime and possibilities for rehabilitation as well as preparation for release.

Lifers released on parole should be subject to supervision by the relevant service and contribute to their effective reintegration back into society. The probationary period should be decided by the court deciding on the parole. Lifers should be able to apply for parole without any impediments and the documents to be provided by them to the court should be easily collectable.

If need be, lifers should be granted access to legal aid to be represented by a professional lawyer when applying to the court.

## Background

In a final judgement of 9 September 2019, in *Petukhov (No. 2) v. Ukraine*, application no. 41216/13, the ECtHR found a violation of Article 3 of the ECHR because the applicant had no prospect of release or possibility of review of his life sentence. the ECtHR identified this legal problem as systemic in view the irreducibility of life sentences in Ukraine. It also held, under Article 46 of the Convention, that Ukraine should reform its system of reviewing whole-life sentences by examining in every case whether continued detention was justified. The continued detention could be justified on legitimate penological grounds. The whole-life prisoners have to foresee, with some degree of precision, what they must do to be considered for release and under what conditions, in accordance with the standards developed in the Court's case-law.<sup>2</sup>

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<sup>2</sup>It is to be noted that the Ukrainian authorities communicated to the Committee of Ministers that the present judgment has been widely disseminated and that relevant draft legal amendments were submitted to the Parliament on 3 September 2020. They are to inform the Committee of Ministers about further developments by 15 December 2020, see for details <http://hudoc.exec.coe.int/eng?i=004-52757>

More specifically the ECtHR stated:

*“the present case, in so far as it concerns the irreducibility of a life sentence, discloses a systemic problem calling for the implementation of measures of a general character. The nature of the violation found under Article 3 of the Convention suggests that for the proper execution of the present judgment the respondent State would be required to put in place a reform of the system of review of whole-life sentences. The mechanism of such a 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, in accordance with the standards developed in the Court’s case-law.”<sup>3</sup>*

In this regard, the Ministry of Justice developed two draft laws in order to bring the legislation in line with the practice of the ECtHR, in particular, to implement the judgment *Petukhov (No. 2) v. Ukraine*. The draft laws propose to amend the Criminal Code, the Criminal Procedure Code and the Criminal Executive Code, as well as the Law “On Administrative Supervision of Persons Released from Penitentiary Institutions” and implement a mechanism of mitigation of punishment in the form of life imprisonment. The draft law No. 4049 proposes to amend Article 82 of the Criminal Code of Ukraine, which determines the possibility for a person serving a life sentence to replace the unserved part of the sentence with a milder one after having served at least 10 years of imprisonment. In this case, the penalty of life imprisonment may be replaced by imprisonment for a term from 15 up to 20 years.

### ECtHR jurisprudence

The general principles established in the ECtHR’s case-law on life sentences have been summarised, quite recently, in *Hutchinson v. the United Kingdom* and read as follows:

*“The relevant principles, and the conclusions to be drawn from them, are set out at length in the Vinter judgment (§§ 103-122; recently summarised in Murray v. the Netherlands [GC], no. [10511/10](#), §§ 99-100, ECHR 2016). The Convention does not prohibit the imposition of a life sentence on those convicted of especially serious crimes, such as murder. Yet to be compatible with Article 3 such a sentence must be reducible de jure and de facto, meaning that there must be both a prospect of release for the prisoner and a possibility of review. The basis of such review must extend to assessing whether there are legitimate penological grounds for the continuing incarceration of the prisoner. These grounds include punishment, deterrence, public protection and rehabilitation. The balance between them is not necessarily static and may shift in the course of a sentence, so that the primary justification for detention at the outset may not be so after a lengthy period of service of sentence. The importance of the ground of rehabilitation is underlined, since it is here that the emphasis of European penal policy now lies, as reflected in the practice of the Contracting States, in the relevant standards adopted by the Council of Europe, and in the relevant international materials (Vinter and Others, cited above, §§ 59-81).*

*As recently stated by the Court, in the context of Article 8 of the Convention, ‘emphasis on rehabilitation and reintegration has become a mandatory factor that the member States need to take into account in designing their penal policies’ (Khoroshenko v. Russia [GC],*

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<sup>3</sup> *Petukhov (No. 2) v. Ukraine.*, paragraph 194

no. [41418/04](#), § 121, ECHR 2015). Similar considerations apply under Article 3, given that respect for human dignity requires prison authorities to strive towards a life sentenced prisoner's rehabilitation. It follows that the requisite review must take account of the progress that the prisoner has made towards rehabilitation, assessing whether such progress has been so significant that continued detention can no longer be justified on legitimate penological grounds. A review limited to compassionate grounds is therefore insufficient.

The criteria and conditions laid down in domestic law that pertain to the review must have a sufficient degree of clarity and certainty, and also reflect the relevant case-law of the Court. Certainty in this area is not only a general requirement of the rule of law but also underpins the process of rehabilitation which risks being impeded if the procedure of sentence review and the prospects of release are unclear or uncertain. Therefore, prisoners who receive a whole life sentence are entitled to know from the outset what they must do in order to be considered for release and under what conditions. This includes when a review of sentence will take place or may be sought. In this respect the Court has noted clear support in the relevant comparative and international materials for a review taking place no later than twenty-five years after the imposition of sentence, with periodic reviews thereafter. It has however also indicated that this is an issue coming within the margin of appreciation that must be accorded to Contracting States in the matters of criminal justice and sentencing.

As for the nature of the review, the Court has emphasised that it is not its task to prescribe whether it should be judicial or executive, having regard to the margin of appreciation that must be accorded to Contracting States. It is therefore for each State to determine whether the review of sentence is conducted by the executive or the judiciary<sup>4</sup>."

In addition, in *Matiošaitis and Others v. Lithuania* put special emphasis on the issues of availability of the prospects of social adaptation and rehabilitation of the life sentenced prisoners while serving their sentence. The Court found that prison conditions for life prisoners were not conducive to rehabilitation<sup>5</sup>.

Therefore, the criteria compiled from the relevant case law of the ECtHR provides following requirements for the Member States:

- a life prisoner can be said to have a prospect of release<sup>1</sup>, i.e. the national law affords the possibility of review of a life sentence with a view to its commutation, remission, termination or the conditional release of the prisoner;
- a review mechanism which is limited to humanitarian grounds is not sufficient;
- a review must allow the domestic authorities to consider whether any changes in the life prisoner are so significant, and such progress towards rehabilitation has been made in the course of the sentence, as to mean that continued detention can no longer be justified on legitimate penological grounds;

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<sup>4</sup> *Hutchinson v. United Kingdom* [GC], application no. [57592/08](#), 17 January 2017 paragraphs 42-47.

<sup>5</sup> *Matiošaitis and Others v. Lithuania*, Applications

nos. [22662/13](#), [51059/13](#), [58823/13](#), [59692/13](#), [59700/13](#), [60115/13](#), [69425/13](#) and [72824/13](#), paragraphs 157-183.

- *the review may intervene at any time, although the comparative and international law materials clearly support a review no later than 25 years after the imposition of a life sentence, with further periodic reviews thereafter;*
- *a whole life prisoner is entitled to know clearly, at the outset of his sentence, what he/she must do to be considered for release and under what conditions, including when a review of his sentence will take place or may be sought<sup>1</sup>;*
- *life prisoners must not only know what they must do but must be able to do it i.e. they must be held in conditions that allow them to make progress towards rehabilitation*

To summarise in brief, the review mechanism should comply with the following principles:

- “the principle of legality (“rules having a sufficient degree of clarity and certainty”, “conditions laid down in domestic legislation”);
- the principle of the assessment of penological grounds for continued incarceration, on the basis of “objective, pre-established criteria”, which include resocialisation (special prevention), deterrence (general prevention) and retribution;
- the principle of assessment within a pre-established time frame and, in the case of life prisoners, “not later than 25 years after the imposition of the sentence and thereafter a periodic review”;
- the principle of fair procedural guarantees, which include at least the obligation to give reasons for decisions not to release or to recall a prisoner;
- the principle of judicial review”.

#### CPT Jurisprudence (standards)

The CPT considers that the authorities should institute a process for integrating persons sentenced to life-imprisonment into the general prison population. Particular reference should be made to the Council of Europe’s Committee of Ministers’ Recommendation (2003)23, on the “management by prison administrations of life-sentence and other long-term prisoners” of 9 October 2003. One of the general principles underpinning such management is the non-segregation principle, which states that consideration should be given to not segregating life-sentence prisoners on the sole ground of their sentence. This principle should be read in conjunction with the security and safety principle, which calls for a careful assessment of whether prisoners pose a risk of harm to themselves, to other prisoners, to those working in the prison or to the external community. It recalls that the assumption is often wrongly made that the fact of a life-sentence implies a prisoner is dangerous. The explanatory report to this recommendation notes that “as a general rule, the experience of many prison administrations is that many such prisoners present no risk to themselves or to others” and that “they exhibit stable and reliable behaviour”.

Hence, the placement of persons sentenced to life-imprisonment should be the result of a comprehensive and ongoing risk and needs assessment, based on an individualised sentence plan, and not merely a result of their sentence.<sup>6</sup>

As regards “actual lifers”, the CPT has serious reservations about the very concept according to which such prisoners, once they are sentenced, are considered once and for all to be a permanent threat to the community and are deprived of any hope of being granted

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<sup>6</sup> The CPT 2006 visit report to the Government of the Czech Republic, paragraph 42.

conditional release. In this regard, the CPT refers to the Committee of Ministers' Recommendation Rec (2006)2 on the European Prison Rules of 11 January 2006, as well as to paragraph 4.a of Recommendation Rec(2003)22 on conditional release (parole) of 24 September 2003, which clearly indicates that the law should make conditional release available to all sentenced prisoners, including life-sentenced prisoners. The explanatory memorandum to the latter recommendation emphasised that life-sentenced prisoners should not be deprived of the hope of being granted release. Firstly, no one can reasonably argue that all lifers will always remain dangerous to society. Secondly, the detention of persons who have no hope of release poses severe management problems in terms of creating incentives to co-operate and address disruptive behaviour, the delivery of personal development programmes, the organisation of sentence plans and security.<sup>7</sup>

The CPT considers that it is inhuman to imprison a person for life without any realistic hope of release. Consequently, it reiterated that it had serious reservations about the very concept according to which life-sentenced prisoners are considered once and for all to be a permanent threat to the community and are deprived of any hope of being granted release.<sup>8</sup>

In the states where lifers are not eligible to benefit from conditional release, the CPT invited the authorities to amend the legislation with a view to making conditional release (parole) available to all life-sentenced prisoners, subject to a review of the threat to society posed by them on the basis of an individual risk assessment.<sup>9</sup>

Special emphasis should be made on the 25<sup>th</sup> General Report of the CPT which includes a separate section on the situation of the life sentenced prisoners. The report provides on this subject a set of CPT jurisprudence as well as overview of the Committee's views regarding life sentence and its execution in the Council of Europe Member States.

In the concluding part the CPT calls upon member states to review treatment of life-sentenced prisoners to ensure that this is in accordance with their individual risk they present, both in custody and to the outside community, and not simply in response to the sentence which has been imposed on them. In particular, steps should be taken by the member states concerned to abolish the legal obligation of keeping life-sentenced prisoners separate from other (long-term) sentenced prisoners and to put an end to the systematic use of security measures such as handcuffs inside the prison.

Further, all possible efforts should be made to provide life-sentenced prisoners with a regime tailored to their needs and help them reduce the level of risk they pose, to minimise the damage that indeterminate sentences necessarily cause, to keep them in touch with the outside world, offer them the possibility of release into the community under licence and ensure that release can be safely granted, at least in the overwhelming majority of cases. To this end, procedures should be put in place which allow for a review of the sentence. Obviously, having a purely formal possibility to apply for release after a certain amount of time is not sufficient; member states must ensure, notably through the way they treat life-sentenced prisoners, that this possibility is real and effective<sup>10</sup>.

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<sup>7</sup> The CPT 2007 periodic visit report to the Government of Hungary. Paragraph 33.

<sup>8</sup> The CPT 2013 periodic visit report to the Government of Hungary. Paragraph 68.

<sup>9</sup> The CPT 2012 visit report to the Government of Bulgaria, paragraph 32.

<sup>10</sup> 25<sup>th</sup> General Report of the CPT, paragraphs 81-82.



## The practice of other CoE member states

It has to be noted that most of the CoE member states provide lifers with a possibility to apply for a conditional release after having served certain years in prison. While in some States parole-related decisions are made by special parole boards or commissions, in some States the matter is directly referred to the relevant courts.

In my humble opinion, decision-making powers related to the release on parole can be distributed between executive and judiciary. While specifically established boards and commissions can take initial decisions, the matter should be judicially controlled. However, as the ECtHR has stated, the authorities are granted margin of appreciation in deciding on the system they wish to establish locally and providing the mandate to the executive, as well as to the judiciary, to decide on parole-related matters is in line with the requirements of the Convention. The main issue is to make the system functional and effective, which could provide realistic hope for the release to the prisoners concerned.

In Ireland a life sentenced prisoner has the possibility of being released from prison on license. A life sentence means that one will continue to serve his/her sentence for the rest of his/her life with the possibility of part of it being served in a community setting. If one is released on license, he/she is still serving a life sentence and can be returned to prison if he/she re-offends or breaks any of the conditions of the release.

There is no set number of years that one must serve in prison before he/she can be released on license, but the decision to release a life-sentenced prisoner must be balanced against the offence committed. The number of years one will spend in prison depends on the person's progress in prison, the particular facts of the case, the recommendations made by the Parole Board and ultimately, the decision of the Minister.<sup>11</sup>

In the United Kingdom eligibility for parole is determined in accordance with the type of the prison sentence. If a person is sentenced to life or to an indeterminate sentence, the person concerned is contacted 3 years before his/her earliest release date (tariff) runs out if he/she is serving a sentence of 4 years and more.<sup>12</sup>

The potential applicant gets an application form to fill in. the prisoner can also use a legal advisor. The prison will put together some documents. They will include what the prisoner has done in prison and what he/she plans to do after release. The Parole Board will decide either that the prisoner cannot be released or that the prisoner's case needs a hearing. The prisoner may have to represent himself/herself if he/she cannot get legal aid or does not have a solicitor. It usually takes 6 months to get a decision about a case. The case will be reviewed again within 2 years if the prisoner does not get parole.

A panel of up to 3 members will decide whether to release a prisoner based on a file of documents the prison puts together. This includes:

- the prisoner's behavior in prison
- what the prisoner plans to do once released
- whether the prisoner is likely to commit more crime or is a danger to the public
- why he/she is in prison

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<sup>11</sup> A Guide to the Irish Parole Board, Chapter 7, January 2017.

<sup>12</sup> Getting Parole, Government of the UK.

- previous offences
- what the judge said when the person concerned was sentenced
- the victim's statement - this may be read at the hearing
- medical, psychiatric and psychological evidence

There will be other people at the hearing, for example:

- the solicitor (the prisoner might need to represent himself/herself if legal aid or solicitor are not provided)
- a prison psychologist
- the victim (when they are reading their victim statement)
- the victim liaison officer
- witnesses

Prisoners are able to challenge the Parole Board's decision and also apply for judicial review.

In Georgia, after serving 20 years in prison life sentenced inmates can directly apply to the court for a release on parole.<sup>13</sup> The court may release him/her on parole from further serving the sentence for the probation period. When making the decision, the court shall consider the character of the crime, the way in which the convicted person behaved during his/her service of sentence, the fact of committing a crime by him/her in the past (reoffending), his/her criminal record, the risk of repeated commission of crime, the family circumstances and the personality of the convicted person.

If, within the probation period, a convicted person:

- a) has deliberately evaded performance of a duty imposed on him/her, the court may, upon presentation of the bodies provided for by the law, hold that the probation period be revoked and the life imprisonment be enforced;
- b) has committed a crime of negligence, the question of whether the probation period be revoked or remain effective shall be decided by the court;
- c) has committed an intentional crime, the court shall impose a punishment on him/her under the procedure established by this Code. The same procedure shall apply when a punishment is imposed on a convicted person for committing a crime of negligence if the court revokes the probation period.

### Legal analysis of the draft provisions

As to the proposed draft Articles 82.5 and 82.6 of the Criminal Code of Ukraine on the replacement of the sentence or unserved part of a sentence with a more lenient one, the possibility for the lifer to apply to the court for the replacement of the life sentence with a fixed term imprisonment should be considered as a step into the right direction. However, replacement of the life sentence with more lenient punishment should not be a precondition for being considered for a release on parole. This matter will be further elaborated below.

While the drafters of the Law aim at making former lifers eligible to apply for conditional release, they introduce certain conditionalities which potentially weaken the accessibility to the mechanism. More specifically, they propose a 2-tier system.

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<sup>13</sup> Article 72<sup>1</sup> of the Criminal Code of Georgia

According to the draft Law, first, the lifer should apply for the substitution of his life sentence with a fixed term imprisonment to be decided by the panel of 3 judges and only then he/she becomes eligible to apply for a conditional release as other fixed term prisoner. The decision regarding the parole is also made by the courts.

What happens if the lifer is refused the change of his life sentence into a fixed term imprisonment? According to the proposed draft he/she is prevented from submitting the application for a conditional release, as only fixed term prisoners are eligible to apply for parole and this at least temporarily kills the realistic hope for the lifer to be released on parole.

Let us consider that the court, based on the application of the lifer, agreed to change life sentence to a fixed term imprisonment. This means that after serving his/her term in the prison, former lifer should be released unconditionally as other prisoners falling into similar category. Unless he/she is released on parole by the court before serving his full sentence. It also means that any type of post-release supervision mechanism cannot be applied. In case of release on parole, the authorities maintain tools to supervise post-release period of a lifer and contribute to his/her rehabilitation and reintegration.

While the proposed 2-tier system provides additional safeguards and potentially makes early release of a lifer less realistic, it also paves the way to legal uncertainty and falls short of the practice the majority of the COE member states applied in similar situations.

Therefore, I would strongly encourage the authorities to provide lifers direct access to the parole mechanism. It goes without saying that conversion of life sentence to a fixed term one should remain as an option. For example, after serving up to 25 years in the prison, lifer should be eligible to apply to the courts for a conditional release. The Criminal Code should provide the possibility of imposing a certain probationary period for the lifer released. If the person concerned violates the probation rules, life sentence can be enforced.

Additionally, social rehabilitation and adaptation prospects for the lifers in the prisons of Ukraine are rather limited, due to the lack of access to appropriate regime supporting reducing the level of risk they pose and unavailability of relevant services and programs. Treatment of lifers in Ukraine, described in CPTs reports make it clear that general approach on life sentenced prisoner has to be substantively revised.

As a result of the CPTs 2017 periodic visit, the Committee concluded that the situation of life-sentenced prisoners in Ukraine has remained basically unchanged, as the relevant legislation has not been amended despite the Committee's long-standing recommendations. Lifers continued to spend up to 23 hours per day in small cells, were offered hardly any organised activities and association, and had no realistic prospect for conditional release<sup>14</sup>.

Currently, according to Section 151-1 of the Criminal Executive Code, after having served at least five years of imprisonment and following an assessment of their individual behaviour and attitude to work, life-sentenced prisoners may be transferred from smaller cell-type premises to multiple-occupancy cells/dormitories in a maximum-security prison, allowing them to participate in group activities (educational, cultural and sports), and further to ordinary prisoner accommodation in a maximum-security prison after another five years of imprisonment. In other words, having served ten years of their sentence, life-sentenced

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<sup>14</sup> The CPT 2017 periodic visit report to Ukraine, page 7.

prisoners can, in principle, be accommodated together with other prisoners.<sup>15</sup> However There is still much to be done to provide lifers with adequate access to programs of rehabilitative value. This issue needs to be addressed both at legal and practical levels.

As to draft paragraph 11 of Article 154 of the Criminal Executive Code, in my opinion the requirement for the lifer to submit a reintegration plan is excessive and rather unrealistic. Most of lifers will be unable to prepare such plans, and this should be the duty of the prison social service to elaborate such plan in cooperation with the prisoner concerned and submit it to the courts. Lifer might be asked by the courts about his plans after release and provision of such information should be sufficient for the purpose of making a decision.

Changes proposed to the Code of Criminal Procedure, more specifically Article 539 paragraph 7, provide that a court's ruling to dismiss a motion for release on parole or commutation of the unserved portion of the punishment has become final, a repeat motion on the same matter filed regarding persons sentenced to life imprisonment as well as persons sentenced to imprisonment of not less than 5 years for committing grave and especially grave offences may be considered not earlier than one year, and regarding persons sentenced for committing other offences and underage persons, not earlier than six months from the date of the dismissal ruling. Preferably, lifers should be able to challenge the decision made by the panel of 3 judges at the higher judicial authority and the Law should provide them such possibility.

### Concluding remarks and Recommendations

As it transpires, proposed amendments to the relevant articles of the Criminal Code, Criminal Executive Code and Code of Criminal Procedure of Ukraine are aimed at improving the human rights situation of the life sentenced prisoners in Ukraine in line with the recent jurisprudence of the ECtHR.

While the authorities are granted a wide margin of appreciation by the ECtHR when deciding on the architecture of the local system dealing with the conditional release of life sentenced prisoners, the system proposed should be effective and provide realistic hope to lifers to be released from prison after serving certain years in the penitentiary. In order to achieve this goal, the proposed amendments require further revision and alignment with practices of other CoE Member States on similar matters.

Preferably, changes to the legislation should substantively revise the approach towards life sentenced prisoners and as a minimum provide them the following rights and opportunities:

- Lifers should be granted the right to apply directly to a relevant body (Court, Parole Board, Special Commission, etc.) for a conditional release (parole) after serving certain number of years of prison sentence but not more than 25.
- Lifers should also have a right to apply to the Court for changing life sentence to fixed term imprisonment (commutation) after serving prison sentence for certain number of years.

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<sup>15</sup> In addition to life-sentenced prisoners, maximum-security prisons hold persons serving a determinate prison sentence for extremely serious crimes.

- Drafters of the Law, in line with the practice of the number of COE member States<sup>16</sup>, can consider setting a lower threshold than 25 years for the lifers to apply for the release on parole in line with the practice of the numerous COE member States.
- Lifers should be provided the possibility to challenge the decisions regarding the outcome of their application both on conditional release and commutation of a sentence, made either by the administrative body or the Court at a higher authority both on administrative and judicial instances.
- Lifers should be provided at law and practice all opportunities and possibilities for rehabilitation and preparation for release. They should benefit from access to appropriate regime of activities and special programs tailored to their needs as all other prisoners forming the mainstream prison population.
- If need be, lifers should have ready access to legal aid service to prepare required documents and be represented in the court when applying for parole or commutation of the sentence.

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<sup>16</sup> Armenia at 20 years, Austria at 15, Belgium at 15, with an extension to 19 or 23 years for repeat offenders, Bulgaria at 20, Cyprus at 12, Czech Republic at 20, Denmark at 12, Finland at 12, France at 18 in most cases and 30 years for certain murders, Germany at 15, Greece at 20, Hungary at 20, unless the court orders otherwise, Ireland provides for preliminary review by the Parole Board after 7 years except for certain types of murder, Liechtenstein at 15, Luxembourg at 15, Monaco at 15, Romania at 20, Sweden at 10, Switzerland at 15 years which are in practice reduced to 10, the North Macedonia at 15.