

# Hungary

## EXECUTION OF THE EUROPEAN COURT OF HUMAN RIGHTS' JUDGMENTS

### MAIN ACHIEVEMENTS IN MEMBER STATES

The present survey presents short summaries<sup>1</sup> of a selection of the main reforms and achievements reported in final resolutions since the Convention system was amended in 1998 by Protocol No. 11, with a clear focus on recent reforms referring, however, also to important earlier developments.

In view of the wealth of cases closed, the selection concentrates on those which have led to changes of legislation or government regulations or the adoption of new policies or general guidelines from superior courts. As a rule, the survey does not cover information on measures aiming at providing individual redress to applicants.

The presentation is organised country-by-country and reforms are, in principle, presented in the order corresponding to the thematic domains used in the Council of Europe's specialised database HUDOC EXEC and the Committee of Ministers' Annual Reports on the Supervision of the Execution of the European Court of Human Rights' judgments.

Many reforms address issues which appear to be on-going challenges in the member State. The effects of reforms adopted at one point in time may thus need to be monitored and possibly re-evaluated as conditions change.<sup>2</sup>

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<sup>1</sup> The summaries are the sole responsibility of the Department for the execution of the judgments of the European Court of Human Rights.

<sup>2</sup> The presentation is limited to the information provided at the time of the adoption of the final resolution. It is recalled in this context that the Committee of Ministers has issued [Recommendation \(2004\)5](#) on the verification of the compatibility of draft laws, existing laws and administrative practice with standards laid down in the European Convention on Human Rights.

## ➤ Right to life:

### ▢ Adequate protection by witness protection scheme

To provide, in criminal proceedings, better safeguards to auxiliary persons, such as family members of a collaborator of justice, the 2018 Criminal Procedure Code amended the 2001 Witness Protection Act. Notably, the legislation provided better safeguards against the automatic exclusion from a witness protection scheme of persons who had been granted protection with reference to the collaborator of justice (e.g. family members), in case of a breach of the scheme's provisions by the collaborator.

*R.R. And Others (19400/11)*  
[Final Resolution](#)  
[CM/ResDH\(2021\)385](#)

## ➤ Right to liberty and security

The Code of Criminal Procedure was modified progressively from 2003 onwards to stress the obligation to provide reasons in decisions on detention on remand and to ensure that prosecution motions to extend detention during the investigation be served on the defendant before the hearing on the prolongation at issue.

*Osváth (20723/02)*  
[Final Resolution](#)  
[CM/ResDH\(2008\)74](#)

*Imre, Maglódi, Csáky and Bárkányi (53129/99+)*  
[Final Resolution](#)  
[CM/ResDH\(2011\)222](#)

## ➤ Functioning of justice

### ▢ Fairness of proceedings

The Code of Criminal Procedure which had permitted *in camera* sessions was amended in 2006, specifying those cases in which *in camera* sessions may be possible, while stipulating that a public hearing must be held with the presence of the accused and their defence counsel, if a sentence may be made more severe on appeal.

*Csikós (37251/04)*  
[Final Resolution](#)  
[CM/ResDH\(2008\)72](#)

The Code of Criminal Procedure of 2017 specified the type of cases in which the second instance court may decide on an appeal in an *in camera* session, reducing these cases to procedural questions and affording additional safeguards. The procedural framework now guarantees that it is not possible for the second instance court to uphold a criminal conviction on the merits against the accused without holding a public hearing.

*Sandor Lajos Kiss (26958/05)*  
[Final Resolution](#)  
[CM/ResDH\(2022\)165](#)

The provisions in the Act on the Organisation and Administration of Courts as well as in the Fundamental Law, which had allowed for the reassignment of cases to a court other than the initially competent court, were repealed in 2013.

*Miracle Europe Kft (57774/13)*  
[Final Resolution](#)  
[CM/ResDH\(2021\)116](#)

To ensure impartiality of tribunals, domestic courts have aligned their case-law with ECHR standards, hence when examining motions for exclusion for bias they apply both the objective and the subjective tests. The possibility of reopening of civil cases following a European Court's judgment was introduced by the 2016 Code of Civil Procedure.

*Panyik (12748/06)*  
[Final Resolution](#)  
[CM/ResDH\(2022\)161](#)

### ► Freedom of expression

The Constitutional Court quashed, in 2013, the impugned provision of the Criminal Code, which was criminalising the mere display of totalitarian symbols, including red stars. The Criminal Code, which entered into force in 2013, limited the said prohibition to the use of the symbols in a manner which is capable of “disturbing public peace, in particular that violate[s] the human dignity of victims of totalitarian systems or the due reverence for the dead”. The amended provision therefore allows the exclusion from its scope of applicability activities and ideas which clearly belong to those protected by Article 10 of the Convention.

In 2014, the Constitutional Court, in its review of an individual case, provided important guidance to the judiciary on the distinction between statements of fact and value judgments which are relevant to the contestation of public issues.

*Vajnai group (33629/06+)*  
Final Resolution  
CM/ResDH(2019)346

*Uj (23954/10)*  
Final Résolution  
CM/ResDH(2022)70

*Ungváry and Irodalom Kft (64520/10)*  
Final Resolution  
CM/ResDH(2021)386

### ► Freedom of assembly

In 2008, the Constitutional Court repealed the provision in the Act on the Right to Assembly of 1989, which prohibited demonstrations organised without prior notice. Thus prior notice before holding demonstrations is no longer required.

*Bukta and Others (25691/04)*  
Final Resolution  
CM/ResDH(2010)54

### ► Protection against discrimination

#### ◻ on the ground of nationality

The Act on Family Support was amended in 2010 to extend the right to maternity benefits to every woman legally residing in Hungary, regardless of her nationality.

*Lajos Weller (44399/05)*  
Final Resolution  
CM/ResDH(2012)189

### ► Protection of property rights

In 2014, the disproportionately high taxation of civil servants' severance pay was lowered from 98% to 75%. As regards dismissals effected between 2010 and 2013 under the impugned regime, a new law of September 2014 introduced a retroactive flat-rate public charge of 40% for 2010, 15% for 2011, 20% for 2012 and 25% for 2013. New legislation in 2018 abolished the overall imposition of special tax on severance pay.

#### ◻ Accuracy of the land register

A National Cadastral Programme for the creation of digital map collections was launched in 1996 and completed in 2007. The 2012 Act on Geodetic and Mapping Activities provides for the constant maintenance and adjustment based on land surveying of the national cadastral maps. The 2020 Act on the Settlement of the Ownership of Land Plots Subject to the Right of Land Use of Cooperatives and on the Amendment of Certain Laws on Land Matters provides that individuals (or their successors), registered on 01/01/2021, who were entitled to a plot of land that had been transferred to a collective farm and who have not yet received any land or compensation in return, shall be entitled to monetary compensation proportionate to the value of the title they own.

*N.K.M. group (66529/11)*  
Final Resolution  
CM/ResDH(2019)182

*Szkórits (58171/09)*  
Final Resolution  
CM/ResDH(2021)83

## ► *Electoral rights*

With regard to the restriction of voting rights on the ground of mental disabilities, the 2013 Act on the Electoral Procedure sets forth the modalities and criteria for the exclusion of incapacitated persons' voting rights. These are to be decided by domestic courts in the context of guardianship proceedings. With the application of these constitutional and legal provisions, domestic courts have aligned their case-law with ECHR standards.

*Alajos Kiss (38832/06)*  
Final Resolution  
CM/ResDH(2020/317)

## ► *Freedom of movement*

In 2003, a law abrogated the provision in the Code of Criminal Proceedings according to which persons against whom criminal proceedings were conducted for an offence punishable by imprisonment of five years or more were prohibited to travel abroad until the judgment had become final.

*Földes and Földesné Hajlik,  
and Bessenyei (41463/02+)*  
Final Resolution  
CM/ResDH(2011)295