



Hungarian Helsinki Committee

HUNGARIAN HELSINKI COMMITTEE

H-1054 Budapest, Dohány u. 20.
P.O. Box: H-1242 Budapest, Pf. 317.
Tel/fax: + 36 1 321 4323, 321 4141, 321 4327
helsinki@helsinki.hu
www.helsinki.hu

Budapest, 13 August 2020

**Council of Europe
DGI – Directorate General of Human Rights and Rule of Law
Department for the Execution of Judgments
of the European Court of Human Rights**

F-67075 Strasbourg Cedex
France
dgi-execution@coe.int

Subject: Addendum to the communication from the Hungarian Helsinki Committee concerning the cases of ISTVAN GABOR KOVACS and VARGA AND OTHERS v. Hungary (Application nos. 15707/10, 14097/12, 45135/12, 73712/12, 34001/13, 44055/13, and 64586/13)

Dear Madams and Sirs,

The **Hungarian Helsinki Committee (HHC)** is a leading human rights organisation in Hungary and in Central Europe. The HHC monitors the enforcement of human rights enshrined in international rights instruments, provides legal defence to victims of human rights abuses by state authorities and informs the public about rights violations. The HHC particularly focuses on the conditions of detention and the effective enforcement of the right to defence and equality before the law.

The HHC ran a detention-monitoring program for over two decades between 1995 and 2017. In this period, the organization carried out 1237 monitoring visits at police jails, 48 visits at penitentiary institutions and made 51 inspections at places of immigration detention. The HHC submitted numerous communications to various international forums in related subject matters. Its lawyers have litigated cases related to the conditions of and treatment in detention in Hungarian prisons before domestic forums and the European Court of Human Rights. Three out of the six applicants in the Varga and Others v. Hungary case were represented by HHC's lawyers.

With reference to the judgments of the European Court of Human Rights (ECtHR) **in the cases of ISTVAN GABOR KOVACS and VARGA AND OTHERS v. Hungary**, and the action plan on the implementation of these judgements submitted by the Government of Hungary, **the HHC respectfully submits an addendum to the observations** it filed on 29 July 2020 under Rule 9 (2) of the "Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements".

Construction of 2,750 new places

On 13 July 2020, the Government announced that places for altogether 2,750 new detainees had been constructed using light-weight technology. According to the National Prison Administration, "the new annexes of institutions accommodate 110 persons in each of the facilities in Állampuszta, Pálhalma, Sopronkőhida and Szeged, there are 220 new places in the Tököl prison, the institutions in Baracska and Veszprém offer 330 new places each, there are 440 additional places in Kiskunhalas and Tiszalök each, while in Miskolc the new annex offers 550 new places for inmates".¹ The ground space of cells for three persons is 12.5

¹ <https://www.kormany.hu/en/ministry-of-justice/news/government-s-goal-is-to-put-an-end-to-overcrowding-in-prisons>



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metres, while the ground space of cells holding six persons is 25.5 square metres. 941 air-conditioning units have been installed.²

This will bring the total occupancy rate of the Hungarian prison system close to 100%.

While this development is welcomed by the HHC, we find it important to emphasise the need to continue the enhanced supervision of the execution process for the following reasons.

1) The significant improvement of the actual situation does not render the criticism concerning the problems of the compensation scheme and the suspension of compensations invalid. While the reduction of the overall level of occupancy is likely to eventually remedy some of the issues raised in the previous Rule 9 communications [e.g. the preventive remedy is more likely to fulfil its preventive function and therefore making compensation claims dependent of the submission of Section 144/B complaints might eventually become justified by the actual practice – at least with regard to serving houses (see below)], many will remain to be unresolved, such as (i) the unjustified suspension of the execution of final and binding judicial decisions; (ii) the difficulties of access to the procedure for indigent inmates who cannot afford to retain a lawyer; (iii) the lack of the equality of arms in the compensation procedure, (iv) the divergence of the jurisprudence, or (v) the unreasonable length of the proceedings in the case of certain categories of detainees.

Since the compensations are due for past violations, no matter how fast and significant the improvement of the occupancy situation is, it may only render the compensation scheme unused in the longer run, when the compensations for the inhumane detention conditions of the past have been adjudicated and settled. Until then, the enhanced supervision remains justified even if the overcrowding rates remain low for a longer period of time and throughout the whole prison system.

2) As it was mentioned in the previous Rule 9 communications, remand houses are in general more overcrowded than serving houses. There are only two remand houses among the prisons where the new places have been constructed (Veszprém and Miskolc) and one serving house which is also designated for the placement of pre-trial detainees (the Szeged prison). This means that while the creation of new places will obviously ease the pressure on the prison system as a whole, it is expected to impact remand houses somewhat less, so it needs to be seen what the extent of overcrowding will be in remand prisons after the transfers of inmates resulting from the opening of the new units have been carried out. This will require freedom of information requests regarding the last quarter of 2020.

Similarly, FOI requests will be needed to assess whether the positive impact of the creation of new places will concern different security groups evenly. According to information from the prison personnel, due to the technology of construction and their blueprint, the new units will primarily be used for the placement of low risk offenders and inmates who have a track record of cooperating with the prison authorities.³ For this reason, the decrease generated by the new constructions in the occupancy levels of maximum and medium security prisons is expected to be less significant than in low security institutions. This assumption again needs to be tested on the basis of the actual numbers once the transfer have been carried out and the new units start to operate at full capacity.

² Ibid.

³ <https://www.facebook.com/watch/?v=583944288957633>



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3) Finally, it also needs to be seen how the recent tightening of provisions regarding conditional release and its impact on the jurisprudence of courts in relation to cases where parole is still allowed in accordance with the pre-reform will impact the overall prison population. If these changes do not result in a significant increase of the detainee-population, the new units might offer a solution for at least the near future, if however the number of inmates starts to rise again as a result of the tightened regulation and its impact on the general judicial practice, the positive impact might not be a long-lasting one.

Recommendations

For the above reasons, the HHC respectfully calls on the Committee of Ministers of the Council of Europe to **continue the enhanced supervision of the execution process regarding this group of cases until the impacts of the review of the ongoing changes of the compensation system and of the creation of the new detention places can be adequately assessed.**

The HHC also maintains its recommendations concerning the longer standing and the novel problems of the preventive and compensatory system of remedies, including the suspension of the payment of the compensations already granted in final and binding judicial decisions.