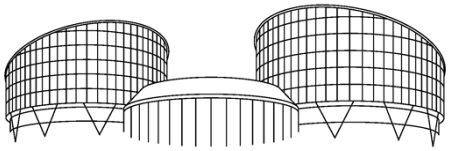

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF ÉBERLING AND OTHERS v. HUNGARY

(Applications nos. 19002/20 and 6 others – see appended list)

JUDGMENT

Art 3 (substantive) • Inhuman or degrading punishment • Whole life sentences subject to mandatory pardon procedure after 40 years lacking *de facto* reducibility for Art 3 purposes

Prepared by the Registry. Does not bind the Court.

STRASBOURG

14 April 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Éberling and Others v. Hungary,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Arnfinn Bårdsen*, President*,
Jovan Ilievski,
Oddný Mjöll Arnardóttir,
Gediminas Sagatys,
Stéphane Pisani,
Juha Lavapuro,
Hugh Mercer*, judges*,

and Andrea Tamietti, *Section Registrar,*

Having regard to:

the applications (nos. 19002/20, 31336/21, 40481/21, 17090/22, 18357/22, 18359/22, and 12300/24) against Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by one Bulgarian national, four Hungarian nationals, one Romanian national and one Serbian national ("the applicants"), on the various dates indicated in the appended table;

the decision to give notice of the applications to the Hungarian Government ("the Government");

the exemption of Mr P. Paczolay, the judge elected in respect of Hungary, from sitting in the case (Rule 28 § 3 of the Rules of Court) and the decision of the President of the Chamber to appoint Judge H. Mercer to sit as an *ad hoc* judge (Article 26 § 4 of the Convention and Rule 29 of the Rules of Court);

the parties' observations;

the decisions of the Romanian Government (in application no. 31336/21), the Bulgarian Government (in application no. 40481/21) and the Serbian Government (in application no. 18359/22) not to exercise their right to intervene in the proceedings (Article 36 § 1 of the Convention);

Having deliberated in private on 10 March 2026,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns sentences of life imprisonment without the possibility of release on parole imposed on the applicants, and the fact that the mandatory pardon procedure can take place only after they have served 40 years of their life sentences. The applicants complained that their sentences constituted inhuman and degrading punishment, in breach of Article 3 of the Convention.

THE FACTS

2. The applicants are serving whole life sentences in different penal institutions in Hungary. Their dates of birth are set out in the appended table. The applicants were represented by Ms E. Frank, a lawyer practising in Budapest.

3. The Government were represented by their Agent, Mr Z. Tallódi, of the Ministry of Justice.

4. The facts of the case may be summarised as follows.

5. The applicants were all sentenced to life imprisonment without the possibility of being released on parole for (attempted) aggravated murder and other crimes. None of the applicants lodged a constitutional complaint against the final judgments. The details regarding each applicants' conviction and sentence are as follows.

I. MR ÉBERLING ("THE FIRST APPLICANT")

6. On 7 April 2015 the Kecskemét High Court sentenced the first applicant to life imprisonment for attempted aggravated murder in accordance with Article 160 §§ 1 and 2 (b)-(d) and (f) of Act no. C of 2012 on the Criminal Code (hereinafter referred to as "the new Criminal Code" – see the relevant provisions in paragraphs 25-26 below). The court held that he would be eligible for release on parole once he had served 35 years' imprisonment.

7. On 28 January 2016 the Szeged Court of Appeal altered the qualification of the crime pursuant to Article 166 §§ 1 and 2 (b), (d) and (f) of Act no. IV of 1978 on the Criminal Code (hereinafter referred to as "the old Criminal Code" – see the relevant provisions in paragraphs 23-24 below). At the same time, the court excluded the first applicant's eligibility for release on parole by relying on Article 47/A of the old Criminal Code.

II. MR FÜLÖP ("THE SECOND APPLICANT")

8. On 18 March 2016 the Budapest High Court sentenced the second applicant to life imprisonment for attempted aggravated murder pursuant to Article 166 §§ 1 and 2 (b), (d) and (f) of the old Criminal Code and other crimes. At the same time, the court excluded the second applicant's eligibility for release on parole by relying on Article 47/A of the old Criminal Code.

9. On 14 September 2016 the Budapest Court of Appeal upheld the first instance judgment.

III. MR STOYANOV ("THE THIRD APPLICANT")

10. On 14 June 2018 the Kecskemét High Court sentenced the third applicant to 20 years' imprisonment for people smuggling committed within the framework of a criminal organisation and aggravated murder pursuant to Article 160 §§ 1 and 2 (d), (f) and (i) of the new Criminal Code.

11. On 20 June 2019 the Szeged Court of Appeal confirmed the third applicant's conviction but sentenced him to life imprisonment without parole in accordance with Articles 34, 41 and 42 of the new Criminal Code.

IV. MR MÉSZÁROS ("THE FOURTH APPLICANT")

12. On 12 June 2014 the Szolnok High Court sentenced the fourth applicant to life imprisonment for attempted aggravated murder pursuant to Article 160 §§ 1 and 2 (c), (d), (f) and (j) of the new Criminal Code and other crimes. The court held that he would be eligible for release on parole once he had served 40 years' imprisonment.

13. On 29 April 2015 the Szeged Court of Appeal altered the qualification of certain crimes and altered the sentence insofar as it excluded the fourth applicant's eligibility for release on parole in accordance with Article 44 § 1 (h) of the new Criminal Code. The court noted that section 46/A of Act no. CCXL of 2013 on the Execution of Punishments, Measures, Certain Coercive Measures and Detention for Regulatory Offences (hereinafter referred to as "the Enforcement Act", see paragraph 27 below) provided for the mandatory pardon procedure in the fourth applicant's case.

V. MR HANKÓ ("THE FIFTH APPLICANT")

14. On 19 November 2019 the Győr High Court sentenced the fifth applicant to life imprisonment for attempted aggravated murder pursuant to Article 160 §§ 1 and 2 (b), (f) and (k) of the new Criminal Code and violation of personal freedom. The court excluded the fifth applicant's eligibility for release on parole by relying on Article 42 of the new Criminal Code.

15. On 23 July 2020 the Győr Court of Appeal upheld the first instance judgment.

VI. MR BAJIC ("THE SIXTH APPLICANT")

16. On 8 May 2015 the Budapest High Court sentenced the sixth applicant to life imprisonment for aggravated murder pursuant to Article 160 §§ 1 and 2 (a)-(d), (f) and (j) of the new Criminal Code and other crimes. The court held that he would be eligible for release on parole once he had served 40 years' imprisonment.

17. On 4 May 2016 the Budapest Court of Appeal altered the qualification of certain crimes and among other things it found that the murder was not

committed against a person who was incapable of self-defence (see Article 160 § 1 (j) of the new Criminal Code). At the same time, the court excluded the sixth applicant's eligibility for release on parole by relying on Articles 42 and 44 § 1 (h) of the new Criminal Code.

VII. MR GÓRÉ ("THE SEVENTH APPLICANT")

18. On 4 February 2020 the Budapest High Court sentenced the seventh applicant to life imprisonment for attempted aggravated murder pursuant to Articles 160 §§ 1 and 2 (b) and (d) of the new Criminal Code, committed as a repeat offender with a history of violence. The court excluded the seventh applicant's eligibility for release on parole.

19. On 11 November 2020 the Budapest Court of Appeal upheld the first instance judgment, clarifying that the exclusion of the seventh applicant's eligibility for release on parole was based on Article 44 § 2 (a) of the new Criminal Code.

20. Following the seventh applicant's request for review, on 16 November 2021 the *Kúria* upheld the Court of Appeal's decision.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. RELEVANT DOMESTIC LAW AND PRACTICE

21. A comprehensive summary of the relevant domestic law and practice has previously been set out, in particular, in the judgments in the cases of *László Magyar v. Hungary* (no. 73593/10, §§ 18-22, 20 May 2014); *T.P. and A.T. v. Hungary* (nos. 37871/14 and 73986/14, §§ 16-17, 4 October 2016); and *Sándor Varga and Others v. Hungary* (nos. 39734/15 and 2 others, §§ 13-20, 17 June 2021). The provisions relevant to the present case can be summarised as follows.

A. The Fundamental Law

22. The Fundamental Law of Hungary, as in force at the material time, provided, in so far as relevant, as follows:

Freedom and responsibility

...

Article IV

"(1) Everyone has the right to liberty and security of person.

(2) No one is to be deprived of liberty except for reasons specified in an Act and in accordance with the procedure laid down in an Act. Life imprisonment without parole may only be imposed for the commission of intentional and violent criminal offences.

..."

Article 9

"...

(4) The President of the Republic shall:

...

(g) exercise the right to grant individual pardons;

...

(5) The countersignature of a member of government shall be required for all actions and decisions of the President of the Republic under paragraph (4). An Act may provide that no countersignature shall be required for decisions made within the powers conferred on the President of the Republic by an Act.

..."

B. The old Criminal Code

23. The old Criminal Code (as in force from 1 March 1999 until 30 June 2013, when it was replaced by the new Criminal Code) provided as follows:

Imprisonment
Article 40

"(1) Imprisonment shall last for life or for a fixed duration.

..."

Release on parole
Article 47/A

"(1) If a life sentence is imposed, the court shall define in the judgment the earliest date of eligibility for parole or it shall exclude eligibility for parole.

...

(3) Release on parole can be excluded in respect of the following offences: offences committed with violence against a person or an object; attempting to overturn the constitutional order by force (Article 139 § 1); aggravated sabotage (Article 142 § 2); genocide (Article 155 § 1); apartheid (Article 157 §§ 1 and 3); aggravated violence against the civilian population (Article 158 § 2); war crimes (Article 160); use of weapons prohibited by an international convention (Article 160/A § 1); aggravated violence against a war emissary (Article 163 § 2); aggravated murder (Article 166 § 2); aggravated kidnapping (Article 175/A §§ 3 and 4); aggravated trafficking in human beings (Article 175/B § 5); aggravated public endangerment (Article 259 § 3); terrorism (Article 261 § 1); aggravated seizure of an aircraft, any means of rail, water or road transport or any means of freight transport (Article 262 § 2); aggravated insubordination (Article 352 §§ 3 and 4); aggravated violence against a superior or a law-enforcement officer (Article 355 § 5); aggravated compromising of combat readiness (Article 363 § 2); breach of duty by a commander (Article 364); or desertion (Article 365)."

24. In accordance with Article 166 § 2 of the old Criminal Code, aggravated murder was punishable by imprisonment for 10 to 20 years or life.

C. The new Criminal Code

25. The relevant parts of the new Criminal Code (as in force from 1 July 2013) read as follows:

Imprisonment
Article 34

"Imprisonment shall be imposed for a fixed duration or for a life term."

Life imprisonment
Article 41

"(1) Only persons over the age of 20 at the time of the commission of the criminal act may be sentenced to life imprisonment.

..."

Release on parole from life imprisonment
Article 42

"In the event that a sentence of life imprisonment is imposed, the court shall specify in its decision the earliest date of eligibility for parole or shall exclude any eligibility for parole."

Article 44

"(1) If life imprisonment is imposed, the court can exclude the possibility of release on parole only with regard to the following criminal offences:

(a) genocide (Article 142 § 1),

(b) crimes against humanity (Article 143 § 1),

(c) apartheid (Article 144 §§ 1 to 3),

(d) aggravated violence against a war emissary (Article 148 § 2),

(e) violence against protected persons (Article 149 §§ 1 to 2),

(f) use of a weapon prohibited by an international treaty (Article 155 § 1),

(g) other war crimes (Article 158),

(h) aggravated murder (Article 160 § 2),

(i) aggravated kidnapping (Article 190 §§ 3 to 4),

(j) aggravated trafficking in human beings and forced labour (Article 192 § 6),

(k) attempting to overturn the constitutional order by force (Article 254 § 1),

(l) aggravated destruction (Article 257 § 2),

(m) aggravated prisoner mutiny (Article 284 § 4),

(n) terrorist act (Article 314 § 1),

(o) aggravated unlawful seizure of a vehicle (Article 320 § 2),

(p) aggravated public danger (Article 322 § 3),

(q) aggravated mutiny (Article 442 § 4),

(r) aggravated violence against a military superior or a serving officer (Article 445 § 5),

if committed by violence against a person or object.

(2) The possibility of release on parole shall be excluded if the perpetrator

(a) is a repeat offender with a history of violence, or

(b) committed the criminal offence specified in paragraph (1) within the framework of a criminal organisation."

26. In accordance with Article 160 § 2 of the new Criminal Code, aggravated murder is punishable by imprisonment for 10 to 20 years, or life.

D. The Enforcement Act

27. The relevant parts of the Enforcement Act, as amended by Act no. LXXII of 2014, in force since 1 January 2015, read as follows:

Pardon
Section 30

"(1) The person vested with the power to grant a pardon may ..., by an act of grace, terminate or mitigate a convicted prisoner's punishment. Where a punishment or measure has been terminated or mitigated by means of a pardon, the terminated or mitigated part of the punishment or measure shall not be enforceable.

..."

Section 45

"(1) The pardon application shall be transmitted, *ex officio* or upon request, ... by the minister responsible for justice to the President of the Republic.

...

(3) A request for pardon may be submitted by the convicted prisoner, his or her defence counsel, the statutory representative of a convicted prisoner or a relative of the convicted prisoner.

...

(5) ... [T]he request for pardon shall be submitted to the court which heard the case at first instance.

..."

Mandatory pardon procedure for prisoners sentenced to life without parole
Section 46/A

"(1) Pursuant to the provisions of this Act, an officially initiated pardon procedure (hereinafter 'mandatory pardon procedure')[1] shall be conducted in respect of convicted persons sentenced to life imprisonment without the possibility of parole.

(2) Having recourse to the mandatory pardon procedure shall not exclude the possibility of a request for pardon being submitted under the general rules by a convicted person sentenced to life imprisonment without the possibility of parole or by any other person entitled to do so, or of the pardon procedure being initiated by a person entitled to do so of his or her own motion."

Section 46/B

"(1) The penal facility detaining the convicted person shall notify the minister responsible for justice when the convicted person has served 40 years of imprisonment.

(2) Prior to the notification mentioned in subsection (1), the correctional facility shall invite the convicted person to make a declaration as to whether he or she gives consent to the mandatory pardon procedure. The declaration of consent or refusal by the convicted person, or, in the event the convicted person has refused to make a declaration, the records thereof, shall be attached to the notification made under subsection (1).

(3) Should the convicted person refuse consent or refuse to make a declaration, no mandatory pardon procedure may be instituted.

..."

E. Relevant case-law of the *Kúria*

28. Following the *Kúria*'s judgment no. BfV.II.1812/2014/7 of 11 June 2015 (see *Sándor Varga and Others*, cited above, § 19), the head of the Criminal Division of the *Kúria* initiated uniformity proceedings (*jogegységi eljárás*). On 1 July 2015 the *Kúria* issued uniformity resolution no. 3/2015 on the unity of criminal law (3/2015 *Büntető jogegységi határozat*) concerning the applicability of Article 47/A of the old Criminal Code (currently Article 42 of the new Criminal Code) and section 46/A of the Enforcement Act in the light of the *László Magyar* judgment (cited above). The decision contained the following passages:

"1. The exclusion of the possibility of conditional release from life imprisonment is part of the constitutional order and the judicial application of such exclusion is not prohibited under any international treaty, provided that the statutory requirements are met.

On the basis of the laws in force, the ECtHR case-law, the Constitutional Court's decision and the 11 June 2015 review decision of the *Kúria* (no. Bfv.II.1812/2014/7), no departure from the established court practice on the imposition of life imprisonment without eligibility for parole (whole life sentence) is warranted.

[1] The content in brackets was removed by legislative amendments with effect from 1 September 2025.

2. A decision that is prompted by a judgment of a human rights body set up under an international treaty and is in conformity with an international instrument promulgated in an Act of Parliament shall be adopted not directly under the European Convention on Human Rights ('the Convention') as a substantive and procedural law serving as a basis for the adjudication of the case but – based on the human rights body's decision, by incorporating it into the Hungarian legal system – under the laws in force that are unaffected by the Convention violation, in review proceedings regulated in the Act on Criminal Procedure.

Reasoning

...

5. ...

In point 3 of the operative provisions in the case of *László Magyar v. Hungary,* no. 73593/10 [20 May 2014], the ECtHR found a violation of Article 3 of the Convention.

...

In that case the ECtHR did not examine and assess Article 47/A of the [old] Criminal Code (currently Article 42 of the Criminal Code in force) – as in force at the time the offence had been committed and tried – but other rules relevant for life imprisonment.

Certainly, the ECtHR did not examine – and could not have examined – the provisions in sections 46/A-46/H of the Enforcement Act ... which came into force on 1 January 2015 (and which are applicable to the ongoing execution of sentences) ...

In this respect there is also no doubt that the ECtHR did not examine the combined regulations under the Criminal Code and the Enforcement Act.

It does not follow from the above that the relevant provisions infringe the Convention.

...

7. ...

In the case of *László Magyar*, the objections raised in the ECtHR's decision did not relate to any specific legislation, but rather to a regulatory gap ...

The decision of the ECtHR did not establish that the applicable legislative provision was contrary to the Convention, but rather that the regulatory framework was. This does not necessarily mean that the legislation applied by the court or its application in its judgment was contrary to the Convention.

The only thing that follows from this is that, besides the applicable law, further regulation is necessary, which is not a task for the courts but for the legislature.

...

In view of the above, the ECtHR did not examine and find contrary to the Convention the criminal-law provision on the basis of which the trial court had ordered the life sentence excluding the possibility of parole.

Consequently, on the basis of that decision of the ECtHR, the application of this criminal-law provision cannot be reviewed either (since it was not the subject of the Convention violation in question, and thus the legal grounds for review did not open up the possibility of its examination).

The ECtHR did not assess the applicability of the penalty but the rules of its execution, which cannot be amended by the courts but by the legislature.

It is a fact that at the time of the decision of the ECtHR and of the request for review, the sentence was under execution, and in the meantime the rules of execution, as criticised by the ECtHR, have been amended.

...

9. The ECtHR criticised the impugned judgment on account of the lack of an adequate regulatory framework. Changing this situation and finding a solution in conformity with the Convention is within the remit of the legislature of the Hungarian State, not of the courts. Act no. LXXII of 2014 (mentioned above) amending the provisions of the Enforcement Act was meant to respond to the shortcomings pointed out by the international human rights body.

...

Under the case-law of the ECtHR, there had been a violation of Article 3 because the domestic legislation, as in force at the time of the judgment, did not oblige the domestic authorities to examine in the course of the pardon procedure whether, at the time when a convicted person lodged a request for pardon, the deprivation of liberty could still be justified on the grounds of legitimate principles of punishment.

Thus, the assessment of the ECtHR did not condemn a positive (existing) legal provision applied by the courts but found that the lack of a regulatory framework was in breach of the Convention. It found that a set of conditions to be applied following sentencing during the enforcement of sentences was lacking.

The legislature responded to the breach of the Convention, as established in the ECtHR's judgment, with the intention of remedying those shortcomings, by introducing a mandatory pardon procedure, which is applicable to all detainees serving whole life sentences, irrespective of whether their conviction and exclusion from release on parole was based on Act no. IV of 1978 or the Criminal Code in force.

10. The ensuing legal position makes the assessment of the general substantive law provisions on whole life sentences inseparable from that of the provisions of ... the Enforcement Act. The conformity of those provisions with the Convention was not examined by the ECtHR and cannot be examined by the Hungarian courts. If the legal preconditions are met, a Hungarian court can impose a whole life sentence without the possibility of parole on the basis of the Fundamental Law, Act no. IV of 1978, the Criminal Code currently in force and the legislative amendment concerning the Enforcement Act, which has not been questioned by the Constitutional Court.

It is impossible by definition to find that a decision was in breach of the Convention if it applied both the legislation in force and a rule which had not been assessed and found to be in breach of the Convention by the ECtHR and which had been accepted by the Constitutional Court."

29. Reiterating the findings of the above-mentioned uniformity decision, the *Kúria* subsequently delivered several rulings in review proceedings instituted by prisoners serving whole life sentences. It held that the violation of Article 3 of the Convention as established by the Court with regard to the mandatory pardon procedure pertained to the execution of judgments, and not to sentencing (see, *inter alia*, decisions Bfv.III.914/2017, Bfv.I.288/2022/19, Bfv.III.493/2022/9, and Bfv.II.858/2022/28). In sum, it repeatedly concluded

that the Court had not established that the criminal-law provisions as applied by the courts upon sentencing were contrary to the Convention, and it upheld the final judgments imposing life imprisonment without parole on the individuals in question.

II. RELEVANT EUROPEAN, INTERNATIONAL AND COMPARATIVE LAW

30. The relevant instruments of the Council of Europe and the European Union, and other international legal instruments concerning the imposition and review of sentences of life imprisonment, are set out in *Kafkaris v. Cyprus* ([GC], no. 21906/04, §§ 68-76, ECHR 2008); *Vinter and Others v. the United Kingdom* ([GC], nos. 66069/09 and 2 others, §§ 60-75, ECHR 2013 (extracts)); and *Murray v. the Netherlands* ([GC], no. 10511/10, §§ 58-65, 26 April 2016).

31. The relevant instruments of the Council of Europe and other international bodies concerning the objectives of a prison sentence, notably as regards the importance to be attached to rehabilitation, are outlined in *Dickson v. the United Kingdom* ([GC], no. 44362/04, §§ 28-36, ECHR 2007-V), and summarised in *Vinter and Others* (cited above, §§ 76-81) and *Murray* (cited above, §§ 70-76).

THE LAW

I. JOINDER OF THE APPLICATIONS

32. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

33. The applicants complained that their sentences of life imprisonment without the possibility of release on parole constituted inhuman and degrading punishment, in breach of Article 3 of the Convention, which reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

34. The Government requested the Court to declare the applications inadmissible for failure to exhaust domestic remedies, without specifying the legal avenue which in their understanding could have constituted an effective remedy in the applicants' case. Nonetheless, the Government referred in their

submissions to sections 26-27 of Act no. CLI of 2011 on the Constitutional Court, which concerned constitutional complaints.

35. The applicants pointed to the lack of any arguments put forward by the Government in their submission regarding the alleged failure to exhaust domestic remedies.

36. The Court understands the Government's submission as indicating that the applicants had failed to lodge a constitutional complaint against their sentencing judgments under sections 26 or 27 of Act no. CLI of 2011. The Court rejected the Government's argument as to the effectiveness of a constitutional complaint for prisoners sentenced to life imprisonment without the possibility of release on parole in the case of *Sándor Varga and Others v. Hungary* (nos. 39734/15 and 2 others, §§ 32-35, 17 June 2021). It noted that life imprisonment without the possibility of release on parole was explicitly provided for by the Fundamental Law (see paragraph 22 above) and, as concluded by the *Kúria*, the possibility of exclusion of eligibility for parole was part of the constitutional legal order (see paragraph 28 above). It considered that in such circumstances, a constitutional complaint did not constitute an effective remedy for the applicants' grievances. The Government have not provided any reason in the present case that could lead the Court to reach a different conclusion. The Court therefore dismisses the Government's objection in that regard.

37. The Court further notes that the applications are neither manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicants

38. The applicants argued that they had been *de facto* deprived of a real chance to regain their liberty, in a similar manner to the applicants in *T.P. and A.T. v. Hungary* (nos. 37871/14 and 73986/14, 4 October 2016). They submitted that the mandatory pardon procedure did not constitute a sufficient guarantee for a reduction of their sentences since it was applicable only after 40 years of a sentence had been served, a period which fell foul of the Court's standards.

39. The applicants noted that the Court had previously held in *László Magyar v. Hungary* (no. 73593/10, 20 May 2014), and *T.P. and A.T. v. Hungary* (cited above) that the presidential pardon procedure was not capable of ensuring the *de iure* or *de facto* reducibility of the applicants' life sentences.

40. In the applicants' view, a sentence of life imprisonment should be imposed only if there was a mechanism for reviewing the sentence after the prisoner had served no more than 25 years.

(b) The Government

41. The Government contended that following the Court's judgment in *László Magyar* (cited above), new legislation – Act no. LXXII of 2014 – had introduced a mandatory pardon procedure for convicted persons serving whole life sentences. In the course of the mandatory pardon procedure the authorities (the Clemency Board) had to examine whether imprisonment continued to be justified as soon as a convicted person had served 40 years of his or her life sentence. Each convicted person was also aware, from the outset of his or her sentence, what he or she must do to be considered for release and under what conditions. The new legislation further allowed proper regard to be paid to the changes and developments that had occurred in the convicted prisoner on his or her way to rehabilitation and allowed for the eventual termination of imprisonment.

42. The Government further argued that the 40-year period corresponded primarily to the retribution phase of a whole life sentence and was proportionate to the circumstances of the offence. Moreover, before the expiry of the 40-year time-limit, the applicants could avail themselves of the individual pardon procedure, even repeatedly, which afforded them the possibility of release if extraordinary circumstances deserving special consideration existed.

2. The Court's assessment

43. The Court has reiterated and further developed its previous case-law concerning the need for life sentences to be *de facto* reducible in *Murray v. the Netherlands* ([GC], no. 10511/10, §§ 99-112, 26 April 2016; see also *Kafkaris v. Cyprus* [GC], no. 21906/04, §§ 97-99, ECHR 2008; *Vinter and Others v. the United Kingdom* [GC], nos. 66069/09 and 2 others, §§ 103-22, ECHR 2013 (extracts); and *Harakchiev and Tolumov v. Bulgaria*, nos. 15018/11 and 61199/12, §§ 243-46, ECHR 2014 (extracts)). The general principles were most recently recapitulated in *Hutchinson v. the United Kingdom* ([GC], no. 57592/08, §§ 42-45, 17 January 2017) and *Sanchez-Sanchez v. the United Kingdom* ([GC], no. 22854/20, §§ 78-82, 3 November 2022). In the latter case, while adopting an adapted approach for the context of extradition, the Court maintained that "the principles set out in *Vinter and Others* must be applied in domestic cases" (see *Sanchez-Sanchez*, cited above, § 95). The Court notes that the present case concerns life imprisonment without parole in the domestic setting.

44. The Court observes that, in the Hungarian context, the whole life sentence and the mandatory pardon procedure after 40 years of imprisonment

(for the relevant legal provisions, see paragraphs 23, 25 and 27 above) were the primary subjects of scrutiny in *T.P. and A.T. v. Hungary* (cited above). The Court held that the fact that the applicants could be considered for release by way of the mandatory pardon procedure only after they had served 40 years of their life sentence was sufficient to conclude that the new Hungarian legislation did not ensure the *de facto* reducibility of those whole life sentences. That factor, coupled with the lack of sufficient procedural safeguards in the second part of the procedure, that is before the President of the Republic, as provided for by the new legislation, led the Court to find a violation of Article 3 of the Convention (*ibid*., §§ 39-50). The Court subsequently confirmed those findings in other judgments concerning whole life prisoners (see, for the application of the general principles in the specific circumstances of other cases, *Kruchió and Lehóczki v. Hungary* [Committee], nos. 43444/15 and 53441/15, §§ 26-28, 14 January 2020; *Coman and Others v. Hungary* [Committee], nos. 49006/18 and 8 others, §§ 8-10, 12 January 2023; and *Pápics and Others v. Hungary* [Committee], nos. 13727/20 and 15 others, §§ 8-10, 4 March 2025). The Court notes that the arguments raised by the Government in the present case are similar to those already examined and rejected in the case of *T.P. and A.T. v. Hungary* (cited above). The Government have not cited any new circumstances which could lead the Court to depart from its previous findings in this regard.

45. As to the individual pardon procedure before the President of the Republic (see paragraphs 22 and 27 above), the Court found in the case of *László Magyar* (cited above, §§ 57-58) and reiterated in *T.P. and A.T. v. Hungary* (cited above, § 46) that that procedure could not make a whole life sentence reducible for the purposes of Article 3 of the Convention. The Government failed to cite any new circumstances that would necessitate a departure from the Court's previous findings.

46. The foregoing considerations are sufficient to enable the Court to conclude and confirm that in the absence of a Convention-compatible review mechanism of the applicants' eligibility for parole (see paragraphs 44 and 45 above), the applicants' whole life sentences, on the basis of criminal-law provisions either of the old Criminal Code or the new Criminal Code (see paragraphs 23 and 25 above), cannot be regarded as reducible for the purposes of Article 3 of the Convention.

47. There has accordingly been a violation of Article 3 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

48. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

49. The applicants claimed 1,500 euros (EUR) each in respect of non-pecuniary damage.

50. The Government found those claims excessive.

51. The Court considers that its finding of a violation constitutes sufficient just satisfaction for any non-pecuniary damage suffered and accordingly makes no award to the applicants under this head (compare *Sándor Varga and Others*, cited above, § 55, and *T.P. and A.T. v. Hungary*, cited above, § 54).

B. Costs and expenses

52. The applicants also claimed EUR 1,000 each for the costs and expenses incurred before the Court.

53. The Government contested those claims.

54. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award each of the applicants EUR 250 in respect of the costs and expenses incurred before it, plus any tax that may be chargeable to them.

FOR THESE REASONS, THE COURT

1. *Decides,* by a majority, to join the applications;

2. *Declares*, by a majority, the applications admissible;

3. *Holds*, by six votes to one, that there has been a violation of Article 3 of the Convention;

4. *Holds*, by six votes to one, that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicants;

5. *Holds*, by six votes to one,
   (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 250 (two hundred fifty euros) each, plus any tax that may be chargeable to them, in respect of costs and expenses, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

6. *Dismisses*, unanimously, the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 14 April 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti Registrar	Arnfinn Bårdsen President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Pisani is annexed to this judgment.

DISSENTING OPINION OF JUDGE PISANI

55. I regret that I am unable to share the view of the majority in the present case, even though it follows certain lines of case-law relating to life sentences, particularly in the Hungarian context.

56. In cases arising out of individual applications, the Court must as a rule focus its attention not on the law as such but on the manner in which it was applied to the applicant in the particular circumstances of the case (see, *mutatis mutandis*, *Ships Waste Oil Collector B.V. and Others v. the Netherlands* [GC], nos. 2799/16 and 3 others, § 167, 1 April 2025). This principle also applies to Article 3 of the Convention, which is only applicable if a minimum level of severity has been attained, characterised by both objective and subjective elements (see *Ireland v. the United Kingdom*, 18 January 1978, § 162, Series A no. 25; see also *M.S.S. v. Belgium and Greece* [GC], no. 30696/09, § 219, ECHR 2011):

> "The assessment of this minimum is ... relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim ..."

This relativity implies that the facts of the case and the applicant's particular situation and vulnerability must be taken into account. The Court considers that detention in itself creates a situation of vulnerability (see *Bouyid v. Belgium* [GC], no. 23380/09, § 83, ECHR 2015), but it seems that a category so broad is necessarily abstract and should not automatically entail the applicability of Article 3. Otherwise, the gradation with Article 8 of the Convention would become inherently meaningless in the prison context and any unpleasant behaviour could be qualified as degrading in that context. Such an approach is not reasonable or compatible with the management of constraints in prison. In my view, the comparison to determine vulnerability must be made with reference to the appropriate standard – which is, in the present case, the prison population and not the general population – and based on subjective criteria. The Court has already found that "[i]n the context of deprivation of liberty ..., to fall under Article 3, the suffering and humiliation involved [had] in any event [to] go beyond that inevitable element of suffering and humiliation connected with the detention" (see *Varga and Others v. Hungary*, nos. 14097/12 and 5 others, § 71, 10 March 2015).

57. In the present case, the Court reiterates its case-law regarding the Hungarian legislation on the review of life sentences (see paragraphs 43-45 of the judgment), before briefly maintaining that these considerations are "sufficient" to conclude that there has been a violation of Article 3 (see paragraphs 46-47). The situation of the applicants, which appears to be unknown, is not taken into account by the majority. Although the majority refer to a certain line of case-law, their approach reflects an abstract review of the domestic legislation that fails to take into account the concrete circumstances of the present case. On the one hand, the current line of

case-law is the result of a reversal carried out in *Vinter and Others v. the United Kingdom* ([GC], nos. 66069/09 and 2 others, ECHR 2013 (extracts)), before which the Court considered that a period of 40 years' imprisonment prior to any possibility of release was not contrary to Article 3 (see *Törköly v. Hungary* (dec.), no. 4413/06, 5 April 2011). On the other hand, the method followed by the Court in its subsequent decisions is open to criticism for several reasons.

58. Over the last decade, the Court has consistently considered that the period of 40 years provided for in Hungarian legislation before a prisoner may request a review procedure for his sentence exceeds the State's margin of appreciation (see *Kruchió and Lehóczki v. Hungary* [Committee], nos. 43444/15 and 53441/15, 14 January 2020; *Sándor Varga and Others v. Hungary*, nos. 39734/15 and 2 others, 17 June 2021; *Blonski and Others v. Hungary* [Committee], nos. 12152/16 and 6 others, 13 October 2022; *Coman and Others v. Hungary* [Committee], nos. 49006/18 and 8 others, 12 January 2023; and *Németh and Others v. Hungary* [Committee], nos. 54117/20 and 8 others, 4 July 2024). Its reasoning is lacunary (see *T.P. and A.T. v. Hungary*, nos. 37871/14 and 73986/14, § 45, 4 October 2016; see also *Bancsók and László Magyar v. Hungary (no. 2)*, nos. 52374/15 and 53364/15, § 45, 28 October 2021):

> "[This period is] significantly longer than the maximum recommended time frame after which the review of a life sentence should be guaranteed, established on the basis of a consensus in comparative and international law ... It is also hardly comparable with the twenty-six-year period that the applicant in *Bodein* had to wait before being eligible to apply for parole ..."

In other words, the Court makes the level of severity required to engage Article 3 dependent on a mere "recommendation", on a "clear trend" observed in comparative law (see *Vinter and Others*, cited above, §§ 120 and 68-81), while at the same time asserting that it should dictate to States neither the form of, nor the period before, reviews of life sentences, having regard to the margin of appreciation they enjoy (ibid., § 120). The applicability of an absolute right therefore seems to depend neither on individual circumstances nor on an objective element, but on an indeterminate assessment based on a recommendation.

59. In the case of *Bodein v. France* (no. 40014/10, 13 November 2014), the Court considered that the law on the review of life sentences was compatible with the Convention, even though the French legislation provided for a review only after 30 years' imprisonment. It reasoned that inasmuch as that period included the time spent in pre-trial detention, the applicant could claim a review of his life sentence 26 years after his final sentence had been imposed. The fact remains that he was forced to spend 30 years behind bars before being able to hope for release. Moreover, a part of that period is less easily justified by the proportionality of the sentence, as it includes the period of detention during which the applicant had not been sentenced. The

interpretative consequence of that judgment seems to be limited. Should we consider that the review of a life sentence may take place after 30 years? If so, why apply the recommendation of 25 years so strictly in the Hungarian context? Otherwise, how should a review after a period of imprisonment between 26 and 30 years be assessed? Furthermore, on account of the succinct presentation of the circumstances of the present case, we do not know whether the applicants were held in pre-trial detention and whether that period was deducted from the 40 years. In fact, no question on this subject was raised in the communication stage. It is therefore unclear whether, and to what extent, we are going beyond *Bodein*. Once again, the majority rely on a carefully chosen line of case-law without taking into consideration other relevant precedents. In *T.P. and A.T. v. Hungary* (cited above, § 45), the Court underlined:

> "Moreover, unlike in *Bodein*, the Government did not seek to argue that any period of the applicants' pre-trial detention would be calculated towards the forty-year time limit necessary in order to commence the mandatory pardon proceedings."

In contrast, in *Blonski and Others* (cited above, § 10), the Court noted:

> "[T]he applicants ... would in practice have to serve less than thirty years after the imposition of their life sentences in order to be considered for conditional release, since the period spent in pre-trial detention was included in the calculation. Indeed, Mr A.A. is eligible for release on parole twenty-six years, and Mr Tóth twenty-nine years after the imposition of their life sentences."

But it considered that "this [was] so only because they [had] been kept in pre-trial detention before their conviction and sentencing and this pre-trial detention period [had] been deducted from the thirty-year period" (ibid., § 11). It concluded that there had been a violation on the ground that 26 years would be excessive, which may seem incongruous given that it entails that a period of 26 years' imprisonment before the review of a life sentence is compatible with the Convention in France but constitutes inhuman and degrading treatment in Hungary. That may be so, in some particular circumstances, but it raises concerns since the particular situation of the applicants is not put forward.

60. A second criticism concerns the victim status of prisoners sentenced to life imprisonment, which the Court acknowledges from the beginning of the judgment. It follows from its case-law that the damage in such situations consists in the absence of any hope of ever leaving prison, which thus exists from the beginning of the sentence. As regards the present case, there is truly a possibility – admittedly distant – that the applicants' sentences will be reviewed after a period of 40 years' imprisonment, or less if any pre-trial detention is to be deducted. This is without mentioning clemency mechanisms, which equally represent a source of hope, because even – or especially – by reason of the element of uncertainty that characterises them, they are unconnected to requirements which may appear unreachable over the long term. It does not seem to me that the notion of hope – which is not very

legal and already involves a form of uncertainty – can be made solely dependent on the length of imprisonment, but on this point, I refer to my earlier and further observations. Moreover, I consider that offering prisoners the possibility of challenging their sentence on the very day it is passed does not allow them to embark on a process of redemption and demonstrates a lack of compassion towards the victims of the crimes, the seriousness of which, I consider, justifies such a sentence.

61. Setting aside the subjective, though unquantifiable, discussion on hope, the treatment contrary to Article 3 is characterised by the length of the deprivation of liberty. The victim status, under Article 34 of the Convention, could be granted only to the prisoners who have already spent a long time in prison. The Court cannot speculate on the length of time an individual is likely to spend in prison, bearing in mind that this depends on his or her lifespan.

62. Assuming that the level of severity needed to engage Article 3 has been attained, it follows from the Court's case-law that among the arguments against irreducible life sentences is the proportionality of the sentence in the light, on the one hand, of the aims it pursues and, on the other, of the seriousness of the crime. In the *Vinter and Others* case, the Court explained that detention was justified by "grounds [including] punishment, deterrence, public protection and rehabilitation", but that "the balance between these justifications [was] not necessarily static", the punitive element weighing more heavily over time (see *Vinter and Others*, cited above, §§ 111-12). Such considerations, linked to the evolution of the prisoner's penological status and to human rehabilitation, require examining the prisoner's situation. However, in the present case it is impossible to assess the first of these two criteria without knowing the reasons for the sentence. As to the second criterion, it is purely hypothetical and, while it may perhaps leave open the question of hope, it leads the Court to condemn States on account of hopes whose premises may never in fact materialise, as the hope is based on a development which is unknown at the initial stage. I would also point out that in *Bancsók and László Magyar* the Court noticed that Hungarian legislation reserved life sentences without eligibility for parole for the most serious crimes, and that the period of imprisonment after which a life sentence could be reviewed ranged from a minimum of 25 years to a maximum of 40 years (see *Bancsók and László Magyar*, cited above, § 42). An irreducible life sentence with a 40-year minimum term is therefore not applied in a generalised manner but depends on the nature of the case.

63. Human dignity is also invoked in support of the prohibition of irreducible life sentences (see *Vinter and Others*, cited above, § 113). While I readily acknowledge that dignity permeates the Convention as a whole, this catch-all notion has, as far as I know, never been clearly defined, if indeed it can be. It seems to me that the Court invokes it in support of its reasoning in an opportunistic manner, thereby defining dignity in a circular fashion as

encompassing the impossibility for the State to deprive a person of his or her liberty without giving that person hope of regaining it, where perpetual imprisonment is contrary to dignity because dignity prohibits perpetual imprisonment. This kind of unsubstantiated, knockout argument does not appear to me to constitute the most forceful reasoning.

64. I would conclude by pointing out that an individualised and concrete assessment of cases involving a life sentence would, where necessary, find, in certain situations, that the Article 3 level of severity had not been attained. The Court could then consider the allegations under Article 8 of the Convention, in so far as a prison term necessarily has repercussions on the applicant's private and family life. This provision has the advantage of allowing a wide margin of appreciation, whereas such flexibility appears not to be possible with the absolute nature of Article 3. This would also avoid a State being subjected to a finding of one of the most serious violations in the Convention system on account of an indeterminate additional term as currently provided for in its legislation, by comparison with a neighbouring European country whose law on the period before reviewing a life sentence would be found to be compatible with the Convention (this difference would not, however, necessarily affect the length of the sentence, which the Court accepts to be extended over and over again to a whole life on the pretext of a periodic review that our Court would subject only to a procedural check). Such a basis would also force our Court into a more detailed analysis as required by proportionality tests, leading to more convincing reasoning and better acceptance of its judgments.

APPENDIX

List of cases:

No.	Application no.	Case name	Lodged on	Applicant Year of birth Place of residence Nationality
1.	19002/20	Éberling v. Hungary	24/04/2020	**József ÉBERLING** 1979 Szeged Hungarian
2.	31336/21	Fülöp v. Hungary	27/05/2021	**József FÜLÖP** 1975 Szeged Romanian
3.	40481/21	Stoyanov v. Hungary	02/08/2021	**Ivaylo Neliev STOYANOV** 1991 Sátoraljaújhely Bulgarian
4.	17090/22	Mészáros v. Hungary	25/03/2022	**Béla MÉSZÁROS** 1976 Budapest Hungarian
5.	18357/22	Hankó v. Hungary	25/03/2022	**Ferenc HANKÓ** 1978 Budapest Hungarian
6.	18359/22	Bajic v. Hungary	25/03/2022	**Dragan BAJIC** 1973 Budapest Serbian
7.	12300/24	Góré v. Hungary	18/04/2024	**Richárd Attila GÓRÉ** 1986 Tiszalök Hungarian