



Courts failed to justify remand period of over three years; Hungary should pursue efforts on pre-trial detention issues

In today's Chamber judgment¹ in the case of [Lakatos v. Hungary](#) (application no. 21786/15) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 5 § 3 (right to liberty and security) of the European Convention on Human Rights

The case concerned the applicant's complaint about being held in pre-trial detention for more than three years without any reasonable suspicion against him.

The Court found in particular that the courts' decisions on Mr Lakatos's detention had been lacking as they had failed to make a proper assessment of the reasons for continuing to hold him. They had also failed to give due consideration to alternative measures, such as house arrest.

Despite a large number of people being held in pre-trial detention in Hungary, the Court decided not to launch a pilot-judgment procedure, which is used to address structural problems raising concerns under the European Convention.

The Government had taken steps to resolve issues related to the use of pre-trial detention and the Court urged the State to continue along those lines. If such efforts proved to be insufficient, it would again reassess the need for the pilot-judgment procedure.

Principal facts

The applicant, Péter Lakatos, is a Hungarian national who was born in 1986 and lives in Gyál (Hungary).

Mr Lakatos was remanded in custody in February 2011 on suspicion of aggravated murder as he was suspected of having poisoned the victim in the case. He was subsequently kept in detention until his conviction by the trial court in October 2014.

The domestic courts cited the possibility of his absconding and intimidating witnesses as the main reasons for holding him in detention and rejected requests to release him under house arrest. To justify those findings, they noted that his financial situation was unstable, that he had no settled address and that he faced a severe punishment if found guilty. They also refused to allow house arrest under an undertaking from a guarantor to ensure that he attended the trial.

In 2013, the Budapest High Court twice ordered his release from pre-trial detention, but the Budapest Court of Appeal overturned both decisions. His detention was reviewed by the *Kúria* in September 2014.

The *Kúria* found that his pre-trial detention was both necessary and proportionate, and that no less restrictive measure was sufficient to ensure the purpose of the criminal proceedings. In October 2014 he was sentenced to 18 years' imprisonment after being found guilty of aggravated murder.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Complaints, procedure and composition of the Court

Relying on Article 5 § 3 (right to liberty and security), Mr Lakatos complained that his pre-trial detention had been repeatedly extended without any reasonable suspicion against him, with the courts applying formulaic reasoning and failing to take account of his personal circumstances. His detention had also been unreasonably long.

The application was lodged with the European Court of Human Rights on 24 April 2015.

Judgment was given by a Chamber of seven judges, composed as follows:

Ganna **Yudkivska** (Ukraine), *President*,
Paulo **Pinto de Albuquerque** (Portugal),
Faris **Vehabović** (Bosnia and Herzegovina),
Carlo **Ranzoni** (Liechtenstein),
Georges **Ravarani** (Luxembourg),
Marko **Bošnjak** (Slovenia),
Péter **Paczolay** (Hungary),

and also Marialena **Tsirli**, *Section Registrar*.

Decision of the Court

Article 5 § 3

The Court observed that Mr Lakatos had been held in pre-trial detention for three years and eight months.

While it was clear that there had been a reasonable suspicion that he had committed the alleged crime, such a suspicion was not enough to keep someone detained. Courts had to give other reasons too, which in this case had been the fear of Mr Lakatos's absconding or pressuring witnesses.

However, the Court found that the domestic courts had not properly examined those other grounds, relying instead on stereotyped and abstract reasons.

For instance, the fear of his pressuring witnesses had been based on threats he had made to witnesses before his arrest, but the courts had not shown how that fear had persisted throughout his detention. They should have looked at the progress of the investigation, his character and any other specific justifications for that worry.

The prospect of his absconding had been based on his lack of steady employment and the fact that he had been unreachable at his registered address at the time of his arrest. Such reasons could be relevant, but they were not sufficient. In particular, the courts had not shown why it had not been possible to ensure his appearance at trial by using other measures, such as house arrest or bail.

The Court was also not convinced by the authorities' reasons for refusing to accept a guarantee offered by a family relative and observed that the appeal court had not explained why it had overturned the first-instance decisions to release him on house arrest.

Overall, the domestic courts had not given relevant and sufficient reasons to extend the applicant's detention pending trial for such a long time and there had been a violation of his rights.

Article 46

The Court noted that it had considered whether or not to launch a pilot-judgment procedure on the issue of pre-trial detention in Hungary, but decided that it did not need to do so at this juncture. Such a procedure is used when there are structural problems leading to rights violations and can

lead to the Court making specific recommendations to bring the situation into line with the Convention.

The Government had stated that there were currently 3,600 people in pre-trial detention, but had observed that the Court had only found a violation of Article 5 § 3 in a few cases. Those had been due to individual errors rather than structural reasons.

On the other hand, the third-party interveners in the case, the Hungarian Helsinki Committee and the Human Rights Litigation Foundation, had stated that Hungarian courts generally placed people in pre-trial detention for too long, used formulaic and repetitive reasons and did not consider alternative measures. About 20% of the total prison population were pre-trial detainees.

The Court observed that while it was currently considering 60 pre-trial detention complaints against Hungary, these had built up over five years. It also highlighted that large numbers in pre-trial detention did not necessarily reflect a practice that was incompatible with the Convention.

Hungary had taken steps related to pre-trial detention and had made efforts to bring its legislation into line with Convention requirements. It also took account of a streamlining of domestic practice by the *Kúria* in 2017. It urged Hungary to carry out further work in relation to pre-trial detention, referring in particular to recommendations from the Council of Europe Committee of Ministers.

If efforts by the Government to tackle the underlying Convention problem were not sufficient, the Court could reassess the need to apply the pilot-judgment procedure in the future.

Just satisfaction (Article 41)

The applicant did not submit a claim and the Court found no reason to make an award.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.