



Complaint about poor detention conditions in Hungary inadmissible: detainees concerned must use national remedies introduced by new law

In its decision in the case of [Domján v. Hungary](#) (application no. 5433/17) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned the complaint by a detainee about the conditions of his detention in a number of prisons in Hungary.

The Court took note of a new law (“the 2016 Act”) which had entered into force in Hungary on 1 January 2017 following the Court’s pilot judgment in the case of *Varga and Others v. Hungary*, in which it had found a widespread problem resulting from a malfunctioning of the Hungarian penitentiary system.

The Court was satisfied that the 2016 Act had provided a combination of remedies, both preventive and compensatory in nature, guaranteeing in principle genuine redress for Convention violations originating in prison overcrowding and other unsuitable conditions of detention in Hungary. It therefore considered that Mr Domján, the applicant, and all others in his position, had to use the remedies introduced by the Act. Mr Domján had made use of those remedies but the ensuing proceedings were still pending. His complaint was accordingly premature and had to be rejected.

Principal facts

The applicant, Csaba Domján, is a Hungarian national who was born in 1981 and is currently detained in Szeged Prison (Hungary).

Between December 2010 and July 2016 Mr Domján was detained in five different prisons in Hungary. Since July 2016 he has been detained in Szeged Prison. He submits that in all of the prisons he was kept in overcrowded cells. In particular, the multiple-occupancy cells accommodated between three and 28 inmates who had – in all but one of the prisons – less than three square metres of living space per prisoner. He also submits that in several of the prisons outdoor exercise was limited to one hour per day and that in one prison, where he was detained for ten months, the toilet was separated from the living area only by a curtain.

Mr Domján has lodged a complaint about his detention conditions under the relevant domestic legislation which is pending before the Szeged High Court.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 29 December 2016.

Mr Domján complained that the conditions of his detention had been in breach of Article 3 (prohibition of inhuman or degrading treatment). He also complained that he did not have an effective remedy at national level, in breach of Article 13 (right to an effective remedy).

The decision was given by a Chamber of seven, composed as follows:

Ganna Yudkivska (Ukraine), *President*,
Vincent A. De Gaetano (Malta),
Paulo Pinto de Albuquerque (Portugal),
Faris Vehabović (Bosnia and Herzegovina),

Egidijus Kūris (Lithuania),
Marko Bošnjak (Slovenia),
Péter Paczolay (Hungary), *Judges,*

and also Andrea Tamietti, *Deputy Section Registrar.*

Decision of the Court

Article 3

The Court referred to its pilot judgment of 10 March 2015 regarding conditions of detention in Hungary (*Varga and Others v. Hungary*, nos. 14097/12 and others). In that judgment, it had found violations of Articles 3 and 13 of the Convention originating in a widespread problem resulting from a malfunctioning of the Hungarian penitentiary system. It had held that Hungary was to put in practice preventive and compensatory remedies in respect of alleged violations of Article 3 of the Convention on account of inhuman and degrading conditions of detention.

The Court took note of an Act adopted by the Hungarian Parliament on 25 October 2016 in relation to the judgment in the case of *Varga and Others v. Hungary*, aimed at introducing preventive and compensatory remedies in cases of inadequate conditions of detention, which had entered into force on 1 January 2017. It was satisfied that the 2016 Act had provided a combination of remedies, both preventive and compensatory in nature, guaranteeing in principle genuine redress for Convention violations originating in prison overcrowding and other unsuitable conditions of detention in Hungary.

As to the preventive remedy, complaints by prison inmates or their representatives about conditions of detention allegedly in violation of fundamental rights were to be submitted to the governor of a penal institution. If the latter found the complaint to be well-founded he or she was to decide, within 15 days, about necessary actions such as relocation within the institution or transfer to another institution. A further judicial review of the prison governor's decision was explicitly provided for by the 2016 Act. In the Court's view nothing proved that the new complaint mechanism would not offer realistic perspectives of improving unsuitable conditions of detention. As to the compensatory remedy, the Court considered that the award offered – between four and five euros per day of unsuitable conditions of detention – was not unreasonable, having regard to economic realities.

Having regard to its finding that the 2016 Act met, in principle, the standards set out by the pilot judgment in the case of *Varga and Others v. Hungary*, the Court considered that Mr Domján and all others in his position had to use the remedies introduced by the Act. In his reply to an information request by the Court Mr Domján had stated that he had made use of those remedies but the ensuing proceedings were still pending. Noting that it was open for him to lodge a fresh application with the Court if his application to the national courts proved unsuccessful, the Court concluded that his complaint was premature and had to be rejected under Article 35 (admissibility criteria).

Other articles

Having regard to its finding that the two new remedies provided for by the 2016 Act were effective, the Court concluded that Mr Domján's complaint under Article 13 (right to an effective remedy) was manifestly ill-founded and therefore had to be rejected.

The decision 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.