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Rule 9.2 submission to the Committee of Ministers by the Turkey Human Rights Litigation Support Project (TLSP), European Association of Lawyers for Democracy and the World Human Rights (ELDH), Association for Democracy and International Law e.V. (MAF-DAD) and London Legal Group (LLG) on the measures required for the implementation of the *Gurban v Turkey* (Application no. 4947/04) group of cases[1]

Executive summary

This submission is presented under Rule 9.2 by the Turkey Human Rights Litigation Support Project (TLSP), the European Association of Lawyers for Democracy and World Human Rights (ELDH), Association for Democracy and International Law e.V. (MAF-DAD) and the London Legal Group (LLG) ("the NGOs"). It concerns the implementation of the European Court of Human Rights' ("the ECtHR" or "the Court") judgments in the *Gurban group* of cases (*Gurban v. Turkey*, *Öcalan (No. 2) v. Turkey, Kaytan v. Turkey, and Boltan v. Turkey*), which found violations of Article 3 of the European Convention on Human Rights ("the Convention" or "the ECHR") due to the imposition of aggravated life imprisonment without any possibility of release or sentence review.

In line with its well-established case law, including *Vinter and Others v. the United Kingdom (GC), Murray v. the Netherlands (GC), Petukhov v. Ukraine (No. 2) (GC), László Magyar v. Hungary, and Bodein v. France*, the European Court of Human Rights has made clear that life sentences are only compatible with Article 3 if they are *de jure* and *de facto* reducible. This requires the adoption of a system that provides a genuine prospect of release for life-sentenced prisoners based on an individualised assessment of whether continued detention remains justified on legitimate penological grounds. More specifically, any compliant regime must ensure:

- **A realistic prospect of release:** Life-sentenced prisoners must know, from the outset, that they will have the opportunity to seek release after a defined minimum period.
- **Review no later than 25 years:** The first review must take place no later than 25 years after the imposition of the sentence, with further reviews at reasonable intervals.
- **Individualised, objective criteria:** Reviews must assess the prisoner's conduct in detention, evidence of personal development, and current risk to society, not solely the nature of the original offence.
- **Procedural safeguards:** Prisoners must have access to legal representation, the right to be heard, reasoned decisions, and the right to appeal or judicial review.

[1] https://hudoc.exec.coe.int/?i=004-36750.

- **Universal applicability:** No category of offence or prisoner may be excluded from review. Mechanisms must apply equally, including to those convicted under "state security" or "terrorism" offences.

Türkiye's legal regime governing aggravated life imprisonment fails to meet these standards. Article 107 of Law No. 5275 excludes from conditional release persons convicted of certain serious offences, including the applicants in the *Gurban group*, thus rendering their sentences irreducible. Despite the Committee of Ministers' ongoing enhanced supervision and decisions urging reform (in 2021 and 2024), Türkiye has not enacted any legislative amendments or proposed a viable review mechanism. No meaningful action plan has been submitted, and the authorities have not disclosed data on the number of affected prisoners, despite independent estimates exceeding 4,000 individuals.

This submission also offers a comparative overview of sentence review frameworks in other Council of Europe member States. A number of States, such as Slovakia, Lithuania, and, in certain respects, France, have introduced review mechanisms that the Court or the Committee of Ministers have assessed as broadly compatible with Article 3 requirements (e.g. *Dardanskiš v. Lithuania*; *Bodein v. France*). Other systems, including those in Italy, Hungary, and the Netherlands, reflect a more mixed picture. While they incorporate some positive elements, such as judicial oversight, periodic review, or conditional release eligibility, they continue to exhibit structural flaws that undermine the effectiveness of the review process (See *Marcello Viola v. Italy (No. 2)*; *T.P. and A.T. v. Hungary; Bancsók and László Magyar (No. 2) v. Hungary*).

This analysis is intended to inform the Committee of Ministers' assessment of Türkiye's compliance with Article 3, as well as the specific reforms required to bring its legal framework into conformity with the Convention. Taken together, it illustrates both the feasibility and the necessity of establishing a Convention-compliant review mechanism, reinforces the Court's recognition of a growing European consensus on the "right to hope," and underscores that Türkiye's continued reliance on an irreducible sentence regime places it increasingly at odds with established Convention standards.

In light of the structural nature of the violations and the large number of individuals affected, the NGOs invite the Committee of Ministers, drawing on ECtHR case law and lessons from comparative examples in other Council of Europe member States, to urge Türkiye to adopt the following reforms to ensure full execution of the *Gurban* group of judgments, and to intensify efforts toward their implementation given the seriousness of the ongoing non-compliance with Article 3:

i. Adopt legislative and other adequate measures to ensure that all forms of life sentences are *de jure* and *de facto* reducible, in accordance with Article 3 of the Convention.

ii. Introduce legislative reforms to establish a functioning, accessible, and judicially reviewable mechanism for the review of all aggravated life sentences, in line with the Court's case law and evolving European standards. This mechanism should:

   (a) Be independent of political discretion and ensure that decisions are made by a competent judicial authority or a body subject to judicial oversight, rather than by the executive;

   (b) Guarantee an initial review no later than 25 years after the imposition of the life sentence, with further periodic reviews at reasonable intervals thereafter;

(c) Enable the competent authorities to assess, based on individualised and objective criteria, whether the life-sentenced person's behaviour, personal development, or other relevant changes are of such significance that continued detention is no longer justified on legitimate penological grounds;

(d) Apply uniformly and without discrimination to all categories of life-sentenced individuals, including those convicted of offences under Turkish Penal Code provisions concerning "State security," "constitutional order," and "national defence" and Anti-Terrorism Law No. 3713, and thereby ensuring universal eligibility for review;

(e) Be governed by legal rules that are sufficiently clear, foreseeable, and precise, and include publicly available criteria for assessing release eligibility, such as:

- time served;
- conduct in detention;
- reduction in risk to society; and
- consideration of legitimate penological objectives (punishment, deterrence, public protection);

(f) Be supported by robust procedural safeguards in line with Convention standards, including:

- access to legal assistance throughout the review process;
- the right to be heard;
- access to relevant documentation and reasoned decisions;
- and the right to appeal or seek judicial review of negative decisions;

(g) Be accompanied by procedural clarity regarding the obligations and expectations placed on prisoners, including clear information about what steps or conduct may be taken into account in review decisions and under what conditions release may be granted.

iii. Ensure that the prison regime for life-sentenced prisoners is compatible with the objective of supporting their personal development and reintegration into society, by enabling them to demonstrate meaningful progress in conduct, responsibility, and readiness for release.

iv. Ensure that any legislative or institutional reforms concerning aggravated life imprisonment and sentence review mechanisms are developed and implemented through a transparent and inclusive process that guarantees effective consultation with bar associations, civil society organisations, and independent experts.

v. Provide the Committee of Ministers with detailed data on the following groups:

- The number of individuals currently serving aggravated life sentences without access to a review mechanism;
- The number of persons currently on trial, or subject to sentencing requests, for aggravated life imprisonment under the same regime; and
- For each group, include additional information on dates of sentence imposition or initiation of proceedings.

I. Introduction

1. This communication is submitted by the Turkey Human Rights Litigation Support Project (TLSP), the European Association of Lawyers for Democracy and World Human Rights (ELDH), Association for Democracy and International Law e.V. (MAF-DAD) and London Legal Group (LLG) ("the NGOs") to the Committee of Ministers ("the Committee") pursuant to Rule 9.2 of the Committee of Ministers' Rules for the Supervision of the Execution of Judgments and of the Terms of Friendly Settlements. It concerns the execution of the European Court of Human Rights' ("the ECtHR" or "the Court") judgments in the *Gurban v. Turkey* (Application no. 4947/04), *Öcalan (No. 2) v. Turkey* (Application no. 24069/03), *Kaytan v. Turkey* (Application no. 27422/05), and *Boltan v. Turkey* (Application no. 33056/16) cases (hereinafter, "*the Gurban group*").

2. In these cases, the Court found violations of Article 3 of the European Convention on Human Rights ("the Convention" or "the ECHR") due to the applicants' sentences of aggravated life imprisonment, served under a legal regime that provided no prospect of release or mechanism for sentence review.

3. This submission provides the Committee with information and analysis concerning the current status of execution in this group. It outlines the relevant jurisprudence of the Court; reviews the Turkish authorities' response to date and the concerns raised by the Committee in its supervision process; sets out the essential elements of a Convention-compliant review mechanism; provides a comparative overview of relevant practices in other Council of Europe member states; and concludes with recommendations for the Committee's consideration.

II. The ECtHR's Gurban group judgments and relevant case law

4. *The Gurban group* of cases concerns the imposition of aggravated life imprisonment in Türkiye under a legal regime that excludes any prospect of release or mechanism for sentence review. In each of the four judgments, *Gurban v. Turkey* (2015), *Öcalan (No. 2)* v. Turkey (2014), *Kaytan v. Turkey* (2015), *and Boltan v. Turkey* (2019), the ECtHR found a violation of Article 3 of the Convention on the ground that the applicants were subjected to irreducible life sentences without any possibility of review or release on penological grounds.

5. The Court held that Turkish legislation governing the execution of sentences - specifically, Article 107 of Law No. 5275[2] - did not provide for a review mechanism for persons sentenced to aggravated life imprisonment for offences committed within the framework of a "terrorist organisation", against "the security of the State", "constitutional order" or "national defence" (*Öcalan (No. 2)* v. Turkey, paragraph 202). As a result, these applicants were subject to an all-life regime which, in law and in practice, offered no real possibility of release, irrespective of

[2] Law No. 5275 on the Execution of Sentences and Security Measures, Conditional Release - Article 107 (16) "In cases where a person is sentenced to aggravated life imprisonment for having committed, within the framework of the activities of an organisation, any of the offences set out in Book Two, Part Four of the Turkish Penal Code No. 5237, under Chapter Four titled "Offences Against the Security of the State", Chapter Five titled "Offences Against the Constitutional Order and its Functioning", or Chapter Six titled "Offences Against National Defence", the provisions on conditional release shall not apply"; Anti-Terror Law No. 3713, Article 17 (4): "Persons convicted of terrorist offences whose death sentences were converted into life imprisonment under the Law No. 4771 of 3 August 2002, as amended by Article 1 of Law No. 5218 of 14 July 2004, and those whose death sentences were converted into aggravated life imprisonment or who were sentenced to aggravated life imprisonment for terrorist offences, are not eligible for conditional release. For these individuals, the sentence of aggravated life imprisonment continues until death."

their conduct in detention, the time already served, the continued relevance of punishment or deterrence, or any reduction in the individual risk they posed to society.

6. In its reasoning, the Court underscored that while States are not required to guarantee the right to release, they are obliged to ensure that life sentences are *de jure* and *de facto* reducible (*Hutchinson v. the United Kingdom* [GC], paragraph 42).[3] The imposition of a life sentence that denies any realistic prospect of release and does not allow for a review in the light of the prisoner's progress and legitimate penological grounds violates the prohibition of inhuman and degrading treatment under Article 3 (*Öcalan (No. 2)* v. Turkey, paragraphs 201-207).

7. The findings in the *Gurban group* are firmly rooted in the Court's established case law. In *Vinter and Others v. the United Kingdom* (GC),[4] the Court held that Article 3 requires both a prospect of release and a possibility of review for life sentences to be compatible with the Convention. It emphasised that such a review must be based on objective criteria, must be carried out no later than 25 years after the imposition of the sentence, and must be followed by periodic reviews thereafter.

8. These standards have been reaffirmed and further developed in subsequent judgments, including:

— *Murray v. the Netherlands* (GC),[5] where the Court stressed that the review mechanism must provide a meaningful opportunity to assess whether the reasons for continued detention remain valid and must include sufficient procedural safeguards such as the right to be heard and to access judicial review.

— *Petukhov v. Ukraine* (No. 2) (GC),[6] in which the Court reiterated that a life sentence cannot remain irreducible solely on the basis of the seriousness of the original offence.

— *László Magyar v. Hungary*,[7] where the Court found a violation of Article 3, holding that the discretionary presidential pardon in the State lacked judicial oversight, objective criteria, and procedural safeguards, and was therefore insufficient to offer a real prospect of release or protection against arbitrary continued detention.

— *Bodein v. France*,[8] where the Court found no violation of Article 3 on the grounds that French law provided a clear and accessible mechanism for reviewing whole-life sentences, subject to judicial oversight and capable of assessing the prisoner's progress and continued dangerousness after a defined period of detention.

9. Taken together, this case law establishes that the "right to hope" is a core component of Article 3 of the Convention. A life sentence must always allow the prisoner to know, from the outset, that there will be an opportunity to have the sentence reviewed after a certain minimum term in detention, and that continued detention will only be justified so long as it remains necessary on legitimate penological grounds such as punishment, deterrence, or the protection of society. A mechanism for such review must be available in law and effective in practice and must allow

[3] *Hutchinson v. the United Kingdom* [GC], Application no. 57592/08, 17 January 2017, paragraphs 42-45
[4] *Vinter and Others v. the United Kingdom* [GC], Application nos. 66069/09, 130/10 and 3896/10, 9 July 2013, paragraphs 120–122
[5] *Murray v. the Netherlands* [GC], Application no. 10511/10, 26 April 2016, paragraphs 100–104
[6] *Petukhov v. Ukraine (No. 2)* [GC], Application no. 41216/13, 12 March 2019, paragraphs 168–169
[7] *László Magyar v. Hungary*, Application no. 73593/10, 20 May 2014, paragraphs 57–58
[8] *Bodein v. France*, Application no. 40014/10, 13 November 2014, paragraphs 53–62

for an individualised assessment of the prisoner's conduct, personal circumstances, and the evolution of their risk over time.

III. Supervision by the Committee of Ministers

10. The *Gurban group* has been under *enhanced supervision* by the Committee of Ministers, due to the structural nature of the violations found under Article 3. In successive decisions,[9] the Committee has reaffirmed that the execution of these judgments requires the adoption of legislative or other adequate measures to ensure the existence of a mechanism that allows for the review of aggravated life sentences after a certain minimum term, with a genuine possibility of release on penological grounds.

11. At its 1419th meeting in December 2021, the Committee noted with concern the lack of concrete steps by the Turkish authorities and stressed that the exclusion of certain categories of prisoners, namely those convicted of crimes against "the security of the State", "constitutional order" or "national defence" within "a terrorist organisation", from conditional release was incompatible with the Convention. It urged the authorities to bring the legal framework into line with the Court's caselaw and requested data on the number of prisoners affected. At its 1507th meeting in September 2024, the Committee reiterated its concern at the absence of progress and strongly urged the authorities to adopt the necessary legislative reforms without further delay, drawing on examples from other member States. It also repeated its request for statistical information and indicated that a draft interim resolution would be prepared for the September 2025 meeting if no meaningful steps were taken in the meantime.

12. Since the September 2024 decision, no legislative or institutional reform has been enacted to remedy the structural deficiencies identified by the Court. The Turkish authorities continue to rely on Article 107 of Law No. 5275 on the Execution of Sentences, which allows for the conditional release of prisoners sentenced to aggravated life imprisonment only after 30 years of detention. However, this provision expressly excludes individuals convicted of offences under the Turkish Penal Code relating to "crimes against State security," "the constitutional order," and "national defence," when such convictions have been handed down within the scope of Anti-Terror Law No. 3713. This exclusion covers the applicants in the *Gurban group* and results in a *de jure* and *de facto* irreducible life sentence regime, in direct contradiction to the standards established by the ECtHR.

13. The Government maintains that the scope of this exclusion is limited and justified by the severity of the offences. However, they have not proposed or implemented any measures to introduce a judicially reviewable mechanism that would allow all persons serving aggravated life sentences to apply for release based on their individual circumstances, including their conduct in detention, the time already served, and an assessment of whether their continued detention is necessary to protect society. Instead, the most recent action plan reiterates existing provisions without any proposal for legislative amendment.[10]

14. In parallel, the authorities have not submitted a meaningful or concrete action plan setting out steps toward a Convention-compliant review mechanism. Repeated references to general

[9] Committee of Ministers, Decision CM/Del/Dec(2021)1419/H46-37, adopted at the 1419th meeting (30 November – 2 December 2021), *Gurban group v. Turkey* (Application No. 4947/04); Committee of Ministers, Decision CM/Del/Dec(2024)1507/H46-35, adopted at the 1507th meeting (17–19 September 2024), *Gurban group v. Turkey* (Application No. 4947/04), https://hudoc.exec.coe.int/?i=CM/Notes/1507/H46-35E

[10] Government of Türkiye, Action Plan, DH-DD(2025)730, 27 June 2025, 1537th meeting (DH), https://hudoc.exec.coe.int/?i=DH-DD(2025)730E.

criminal law 'reform' initiatives, such as "the Judicial Reform Strategy Paper (2025–2029)" and a "forthcoming Human Rights Action Plan", remain abstract and disconnected from the specific obligations arising from this group of judgments.[11]

15. There has also been a lack of transparency, including on critical data. The authorities have yet to provide the requested statistics on the number of individuals serving aggravated life sentences without possibility of review. Independent reports estimate that over 4,000 individuals may currently be subject to this regime.[12] Multiple applications for this data by NGOs have gone unanswered, despite a recommendation by the Ombudsman Institute to publish such statistics in the public interest.[13]

16. Meanwhile, the imposition of aggravated life imprisonment without review continues to be widespread, particularly in cases prosecuted under Articles 302 ("disrupting the unity and territorial integrity of the State"*)*, 309 ("attempt to overthrow the constitutional order") and 312 ("offence against the government of the Republic") of the Turkish Penal Code and Anti-Terror Law No. 3713. These provisions are frequently used in politically motivated cases. The continued use of these frameworks to impose irreducible sentences further entrenches the systemic nature of the violation identified by the Court.

IV. What would a Convention-compliant system look like?

17. As established in the Court's case law and reaffirmed in the Committee decisions, the execution of the *Gurban group* judgments requires the adoption of a system that ensures the *de jure* and *de facto* reducibility of life sentences. This means the introduction of a functioning, transparent, and judicially reviewable mechanism that offers every life-sentenced prisoner a genuine prospect of release after a minimum term in detention, irrespective of the offence for which they were convicted.

18. In line with the Court's guidance in *Vinter and Others v. the United Kingdom, Petukhov v. Ukraine (No. 2), Murray v. the Netherlands, and László Magyar v. Hungary*, such a mechanism must meet the following minimum requirements:

a) Eligibility for Review After No More Than 25 Years of Detention

19. The Grand Chamber in *Vinter* held that a life sentence must be reviewable after no more than 25 years, with further periodic reviews thereafter (paragraph 120). The Court has highlighted this timeframe as the outer limit for first review under the evolving regional and international consensus. Accordingly, in its several subsequent judgments, the Court found violation of Article 3, where the maximum 25-year timeframe for reviewing life sentences was not respected.[14]

20. The Committee of Ministers has echoed this standard and encouraged member States to align with it. Türkiye's current legal framework falls short of these requirements on two fronts: first, it entirely excludes a significant category of aggravated life prisoners, including the applicants

[11] Ibid, paragraphs 18-19
[12] Committee of Ministers, Notes on the Agenda, CM/Notes/1507/H46-35, *Gurban group v. Turkey* (Application No. 4947/04), 1507th meeting (DH), 17–19 September 2024, https://hudoc.exec.coe.int/?i=CM/Notes/1507/H46-35E
[13] Ibid
[14] *Bancsók and László Magyar (No. 2)*, Application nos. 52374/15 and 53364/152, 8 October 2021 ; *Blonski and Others*, Application No. 12152/16 and 6 others, 13 October 2022 ; *Horváth and Others*, Application No. 12143/16 and 11 Others, 2 March 2023; *Horváth and Others*, Application No. 33640/20 and 24 others, 20 June 2024, (the Court has also found a violation in a case where the parole eligibility was set at 25 years and 6 months).

in the *Gurban group*, from any possibility of conditional release; and second, even for those who are eligible, the 30-year minimum threshold exceeds the standard set by the Court and lacks adequate guarantees of periodic review.

b) Periodic Reviews After Initial Rejection

21. A single, one-time review is insufficient. There must be provision for regular, periodic reviews, to account for the evolving circumstances of the individual and changes in their risk profile. In *Murray*, the Court emphasised that such periodicity is essential to assess whether continued detention remains justified on penological grounds, including an individualised assessment of behaviour and risk over time (paragraph 104). This ensures that prisoners are not indefinitely excluded from reconsideration due to the limited, one-time nature of the initial review or procedural barriers at the time of initial review.

c) Clear and Individualised Criteria

22. The review mechanism must be based on objective and transparent criteria, including:

a. Evidence of the prisoner's personal development and conduct during detention,
b. Individual risk assessment, and
c. Consideration of penological justifications such as deterrence and punishment, which must diminish in weight over time.

23. The assessment must go beyond the gravity of the original offence and engage with the prisoner's current circumstances, including their behaviour, time served, and any relevant changes in their risk profile. This approach was reaffirmed by the Court in *Petukhov v. Ukraine (No. 2)* (paragraphs 170–172) and reflected in the Committee of Ministers' supervision of the *Gurban group*.[15]

d) Procedural Safeguards

24. Prisoners must be entitled to full procedural guarantees in line with Convention standards (*Murray v. the Netherlands,* paragraph 100).[16] These include:

a. Access to legal representation throughout the process,
b. The right to be heard,
c. Access to relevant documentation and reasons for decisions, and
d. The right to appeal or seek judicial review of negative decisions.

25. In addition, the Court also underlined that "to the extent necessary for the prisoner to know what he or she must do to be considered for release and under what conditions, it may be required that reasons be provided, and this should be safeguarded by access to judicial review".[17] These safeguards are critical to ensuring fairness and preventing arbitrariness or political interference in the review process.[18]

[15] CM/Del/Dec(2024)1507/H46-35, paragraph 3
[16] *Murray v. the Netherlands* [GC], Application no. 10511/10, 26 April 2016, paragraph 100; *Kafkaris v. Cyprus* [GC], Application no. 21906/04, 12 February 2008, paragraph 105 ; *Harakchiev and Tolumov v. Bulgaria*, Application nos. 15018/11 and 61199/12, 8 July 2014, paragraph 262. See also Council of Europe, Committee of Ministers, Recommendation Rec(2003)22 on conditional release (parole), adopted on 24 September 2003.
[17] *T.P. and A.T. v. Hungary*, Applications nos. 37871/14 and 73986/14, 06/03/2017, para. 49.
[18] Ibid.

e) Universal Applicability

26. The review mechanism must apply without exception to all persons serving aggravated life imprisonment, including those convicted under Anti-Terror Law No. 3713 and Turkish Penal Code provisions on "crimes against State security", "the constitutional order", and "national defence". The current exclusion of these categories renders the review regime non-compliant by design.

27. As both the Court and Committee have emphasised, providing a procedural possibility to apply for release does not require that release be granted automatically. What is required is a realistic opportunity for prisoners to demonstrate that continued detention, after a certain minimum term, is no longer justified on legitimate penological ground.

V. Comparative analysis of CoE member States' practices

28. In several CoE member States, the legal framework governing the review of sentences and conditional release for life prisoners reflects the key criteria laid out in the ECtHR's case law. However, there are notable cases in which legal mechanisms have proven insufficient or deficient in practice to effectively protect a "right to hope" of life prisoners. This section examines various models from other member States, highlighting both good practices and shortcomings, to inform the Committee of Ministers' assessment of the reforms that need to be adopted.

A. Noteworthy Models

Slovakia

29. In Slovakia, life sentences[19] are open to judicial review, with the possibility of obtaining conditional release, since legislative amendments to the Slovak Criminal Code in 2010. The ECtHR has examined the relevant legal provisions and found Slovakian law and practice compliant with Article 3 ECHR standards, noting that they "afford the possibility of a dedicated judicial review" and the mechanism satisfies the Court's criteria.[20] Under Slovakia's amended Criminal Code and its Code of Criminal Procedure, district court judges presiding in the relevant jurisdiction can review petitions for conditional release of life-sentenced prisoners after 25 years of their sentence have been served.[21] A petition can be filed by the prisoner, the prosecutor, the penitentiary director, or a public interest group.[22]

30. The evaluation process includes whether a convicted prisoner's behaviour and compliance with the obligations imposed demonstrate his or her rehabilitation and whether that prisoner can be expected to behave properly.[23] Conditional release is accompanied by a probation period of

[19] Permitted under Section 47 of the Slovak Criminal Code for particularly serious crimes, where no lesser sentence is sufficient to ensure public protection, and the offender is not expected to be rehabilitated within less than 25 years (https://cjad.nottingham.ac.uk/en/state/121/keyword/535/).

[20] *Čačko v. Slovakia*, 22 July 2014, Application no. 49905/08, paras. 77–81. See also *Koky v. Slovakia*, 16 May 2017, Application no. 27683/13, inadmissibility decision.

[21] Articles 66–68 of the Slovak Criminal Code; Section 417(1) of Slovakia's Code of Criminal Procedure. While aggravating factors—such as prior convictions, involvement in organized crime or terrorism, or multiple serious felonies—previously permitted the court to deny parole eligibility altogether under Section 34(8), the relevant provisions were amended to make all prisoners eligible, in line with recommendations by the European Committee for the Prevention of Torture (CPT) (CPT/Inf (2025) 09, p. 24, https://www.cpt-echr.com/wp-content/uploads/2025/04/Slovakia-2023-2025-09-inf-en.docx.pdf).

[22] Section 415(1) of the Code of Criminal Procedure.

[23] Section 66 of the Slovak Criminal Code, see *Koky v. Slovakia*, Application no. 27683/13, inadmissibility decision, 16 May 2017, paragraph 12.

between one and seven years; the court may also impose probationary supervision lasting up to three years and appropriate restrictions.[24] If denied, a petition can be reintroduced after three years, and the denial decision is open to an appeal with suspensive effect.[25] Other procedural safeguards include a public hearing and the right for the prisoner to be heard before the decision is made,[26] and a maximum delay of 60 days for the court's decision.[27]

Lithuania

31. Similarly to Slovakia, the Lithuanian legal system provides for judicial review of life sentences and the possibility of parole. A request for the competent court to change the sentence to a fixed-term sentence and grant parole can be issued after a life-sentenced prisoner has served at least 20 years of their sentence.[28] The mechanism was introduced through amendments to Lithuania's criminal legislation in 2019, after the ECtHR found a violation of Article 3 in *Matiošaitis and Others v. Lithuania* due to the irreducibility of life sentences.[29]

32. The CoE's Committee of Ministers has considered this reform as bringing the Lithuanian system in line with *Matiošaiti* and the ECtHR's Article 3 standards on review of life sentences.[30] Key characteristics of the mechanism included: the availability of a clear mechanism for review and commutation of life prisoners' sentence after they serve 20 years, with further periodic review thereafter; a reasonable length of commuted custodial sentence (5 to 10 years); eligibility for release on parole during the period of commuted sentence; procedural safeguards including the judicial nature of the mechanism, the possibility of representation by lawyers, the requirement for decisions to be fully reasoned, and the availability of an appeal; the existence of clear criteria set out in law for assessing the personal situation of the applicants and considering significant changes and progress towards rehabilitation; and the ability of life prisoners to know clearly, at the outset of their sentence, what they must do to be considered for release and under what conditions.[31]

33. In *Dardanskiš v. Lithuania,* the ECtHR examined these key characteristics against its case-law and confirmed that the legislative amendments "*to improve the situation of life prisoners with a view to granting them the possibility of being released within their lifetimes"* constituted, in principle, an adequate and effective remedy under Article 3.[32] It added that it "*look[ed] forward to [its] proper implementation […] in practice*".[33]

France

34. Pursuant to Article 729 of the French Code of Criminal Procedure, individuals sentenced to life imprisonment may be considered for conditional release after serving a minimum of 18 years,

[24] Section 68 of the Slovak Criminal Code; see *Čačko v. Slovakia*, Application no. 49905/08, 22 July 2014, paragraph 46.
[25] Section 415(1) and 417(3) of Slovakia's Code of Criminal Procedure.
[26] Sections 415(1) and 417(2) of Slovakia's Code of Criminal Procedure (unless the facility director supports the petition and the prosecutor consents (Section 415(3))).
[27] Section 415(5) of Slovakia's Code of Criminal Procedure.
[28] Article 51 of the Lithuanian Criminal Code.
[29] *Matiošaitis and Others v. Lithuania,* Application no. 22662/13 and others, 23 May 2017, paragraphs 180-183.
[30] Resolution CM/ResDH(2019)142 - Execution of the judgment of the European Court of Human Rights - Matiosaitis and Others against Lithuania (Application No. 22662/13) (https://search.coe.int/cm?i=090000168094ce19).
[31] CM/Notes/1348/H46-15 - 1348th meeting (June 2019) - H46-15 Matiošaitis and Others v. Lithuania (Application No. 22662/13) (https://search.coe.int/cm?i=0900001680946e3e)
[32] *Dardanskiš and others v. Lithuania*, Application no. 74452/13 and 15 others, Inadmissibility Decision, 18 June 2019, paragraphs 22-31.
[33] Ibid., paragraph 31.

or 22 years if classified as repeat offender.[34] Conditional release applications are reviewed by the *tribunal de l'application des peines* ("TAP"), a collegiate judicial body composed of three sentence enforcement judges ("JAPs"),[35] which assesses whether the offender meets statutory and behavioral criteria, taking into account reintegration efforts, public safety considerations, and psychiatric evaluations when necessary.[36] The process involves a formal hearing, during which the inmate, assisted by legal counsel, presents a release plan developed with support from attorneys, probation services, charities, and community agencies.[37] Judicial review is available through the court of appeal.[38]

35. However, for certain crimes such as rape or torture of minors, a court may impose a security period of 30 years or decide that no parole may be granted before that term.[39] In *Bodein v France,* the ECtHR affirmed that this possibility of a review of life sentences after thirty years of imprisonment was not necessarily incompatible with its criteria, as the starting point for the calculation of the whole-life term under French law included the period spent in pre-trial detention.[40] In practice, information from 2018 indicated that at that time, only **four individuals** had been sentenced to "true life" without parole since 1994, underscoring the rarity of this ultimate sanction.[41] Still, it should be recalled that in *Bodein v. France* the Court confirmed that a trend was emerging in international and comparative law in favor of review mechanisms that operate no later than 25 years after sentence imposition.

B. Models with Positive Elements and Areas of Concerns

Italy

36. In Italy, under certain conditions, legal system provides for conditional release and adjustments of sentence, including probation (*l'affidamento in prova ai servizi sociali*), home detention, a semi-custodial regime (*semilibertà*), and early release.[42]

37. Pursuant to Article 176 of the Italian Criminal Code, individuals sentenced to life imprisonment may be considered for conditional release after serving a minimum of 26 years in custody if their behaviour demonstrates a genuine desire to repent.[43] They are also eligible for the semi-custodial regime after serving 20 years in prison.[44]

38. In order for conditional release to be granted, other conditions must also be met. These conditions are related to offenders' behaviour during custody, to a critical attitude towards the offence committed and the prognosis that they will not commit further offences for the

[34] https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006071154/LEGISCTA000006138144/2020-03-24/#LEGISCTA000006138144
[35] Article 730-2 of the French Code of Criminal Procedure; Herzog-Evans, Prison Service Journal, Issue 240, 31 https://www.crimeandjustice.org.uk/sites/default/files/PSJ%20240%2C%20French%20%20parole.pdf
[36] Articles 729 and 730-2 of the French Code of Criminal Procedure.
[37] Herzog-Evans (n. 35), 32–33
[38] Articles 712-11 – 712-13 of the French Code of Criminal Procedure.
[39] Articles 221-3 and 221-4 of the French Criminal Code.
[40] *Bodein v. France*, Application no. 40014/10, 13 November 2014, paragraph 70.
[41] Herzog-Evans (n. 35), 31.
[42] Chapter VI of Title I of Law no. 354 of 26 July 1975; *Marcello Viola v. Italy (No. 2)*, para. 35.
[43] 'Chapter 16: Italy' in *Probation in Europe*, eds. Anton M. van Kalmthout, Ioan Durnescu (Legal Publishers (WLP) 2008, 487, https://www.cep-probation.org/wp-content/uploads/2018/10/2008Italy.pdf#:~:text=Life%20sentence%20convicts%20must%20have%20served%20at%20least%20twenty%2Dsix%20years%20in%20custody.&text=176%2C%20Penal%20Code)%20Offenders%20serving%20custodial%20sentences,in%20the%20case%20of%20a%20life%20sentence (Introduced in the 1889 Penal Code, conditional release was reintroduced in the 1930 Penal Code and amended in 1962 and 1975).
[44] Section 50(5) of Law no. 354 of 1975

remainder of the duration of their sentence if released from custody.[45] Individuals granted conditional release are subjected to non-custodial security and supervision measures (*libertà vigilita*), which includes monitoring by the police. Conditional release applications are reviewed by the Supervisory Court.[46]

39. Life-sentenced convicts who can demonstrate that they have followed the rehabilitation programme may also be granted a 45-day reduction of their sentence in respect of every 6 months actually served ("early release").[47] People incarcerated for crimes perpetrated with the aims of terrorism, subversion of democratic order for violence, or for the purpose of forcing sexual acts on another person[48] cannot benefit from early release, though they can benefit from work outside prison, bonus leave, and alternative measures to detention if they collaborate with the state to prevent further crime.

40. In Italy, there exists another regime of life imprisonment, a special form of life imprisonment without parole known as *Ergastolo ostativo*, which is the result of the legislative reform introduced by Law no. 356 of 7 August 1992 (converting Decree-Law no. 306 of 8 June 1992). It is based on a combined reading of Article 22 of the Criminal Code and Sections 4 *bis* and 58 *ter* of the Prison Administration Act. *Ergastolo ostativo* precluded the opportunity for release on license and access to forms of sentence reduction or alternatives to custody for incarcerated people who do not cooperate fully with authorities. The purpose of imposing *ergastolo ostativo* is to sever relations between members of mafia groups. Under this regime, until very recently, persons who did not "cooperate with the judicial authorities" were not entitled to conditional release or to other adjustments of sentence. For this judicial cooperation, the convicted prisoner had to provide the authorities with information that is decisive in terms of preventing any further consequences of the offence or assisting in the establishment of the facts and the identification of the perpetrators of criminal offences (section 58 ter).[49]

41. In the case of *Marcello Viola v. Italy (No. 2),* the ECtHR found that the irreducibility of the applicant's whole life sentence imposed for belonging to a mafia type criminal organisation under the regime of *ergastolo ostativo* was incompatible with the Court's case law under Article 3 of the Convention. The Court held that the irrebuttable presumption enshrined in domestic law, that the applicant's failure to cooperate with the judicial authorities automatically meant that he was still dangerous and therefore ineligible for release on licence, meant that any real

[45] Chapter 16: Italy' in *Probation in Europe*, eds. Anton M. van Kalmthout, Ioan Durnescu (Legal Publishers (WLP) 2008, 487,
[46] Ibid.
[47] Italian Criminal Code art 54(1). Period spent in pre-trial custody or home detention shall be taken into account for time served.
[48] Italian criminal code, art 609(h). Benefits can only be granted to people prosecuted for sex crimes under art 600 of the Italian Penal Code on the grounds of scientific observation of the individual's personality by experts. If an individual committed a sex crime against a minor, the Supervisory Judge or Court shall assess the offender's positive participation in a scientific rehabilitation program (1-e). The judge shall also consider whether the individual cooperated with law enforcement to avoid future crimes (58-c). The Supervisory Judge or Court shall decide after acquiring detailed information with the provincial committee for public order and security having jurisdiction with regard to the place where the convicted person is imprisoned and with information from the police commissioner. The Judge shall decide 30 days after the inquiry and may do so with the participation of the prison ward on the provincial committee.
[49] Marcello Viola v. Italy (No. 2) para. 97. "The prisoner is relieved of this obligation if such cooperation can be characterised as 'impossible' or 'unenforceable' (…) and if he or she can prove the severing of all current links with the mafia group (…)."

progress he made towards rehabilitation could not be taken into account, thus restricting the possibility of reviewing of his sentence to an excessive degree.[50]

42. After the ECtHR's finding of a violation of Article 3 of the Convention in the case of *Marcello Viola v. Italy (No. 2)*, the Italian Government adopted Law-decree No. 162 of 31 October 2022, which was approved by the Parliament on 20 December 2022.[51] According to this amendment, persons sentenced to life imprisonment under the regime of *ergastolo ostativo* and who do not cooperate with the judicial authorities can make an application for conditional release after they have served 30 years of their sentence.[52] This amendment was also criticised for increasing the threshold from 26 years in case of life imprisonment that is established for all other convicted persons, by Article 176 of the Penal Code, and for not addressing the systemic violation of the absolute prohibition of torture identified in the *Marcello Viola v. Italy (No. 2)* judgment by the NGO *Hands Off Cain*, in their Rule 9.2 submission before the Committee of Ministers.[53]

Netherlands

43. In Netherlands, an initial review of a life sentence takes place after 25 years of imprisonment and is conducted by an independent Advisory Board for Prisoners Sentenced to Life. This board is responsible for evaluating the detainee's progress toward reintegration, including psychiatric evaluations at the Pieter Baan Centre, interviews with the prisoner and, where relevant, the victims or their next of kin.[54] Based on this report, the Minister of Justice and Security makes a decision on whether to grant reintegration leave and whether to proceed to the 27-year pardon assessment.[55] The minister retains discretion and is not bound by the advisory board's recommendation.

44. This review mechanism was formalized through the March 2017 ACL Decree and further updated in June 2017 through amendments to penitentiary regulations.[56] While the 25-year advisory review initiates the process, the possibility of a pardon must be assessed no later than year 27. Importantly, prior to this, prisoners are expected to engage in institutional resocialization, such as education, work, and therapy. If they fail to demonstrate behavioural progress or personal development, their chances of release remain minimal.[57] Oversight of access to such resocialization opportunities is provided by the Council for the Administration

[50] Ibid, paras. 98-132.
[51] See Legge 30 dicembre 2022, n. 199 "Conversione in legge, con modificazioni del decreto-legge 31ottobre 2022, n. 162, recante misure urgenti in materia di divieto di concessione dei benefici penitenziari nei confronti dei detenuti o internati che non collaborano con la giustizia, nonché in materia di entrata in vigore del decreto legislativo 10 ottobre 2022, n. 150, di obblighi di vaccinazione anti SARS-COV-2 e di prevenzione e contrasto dei raduni illegali. (22G00209)" in Gazzetta Ufficiale Serie Generale n. 304 of 30 December 2022, https://www.gazzettaufficiale.it/eli/gu/2022/12/30/304/sg/pdf.
[52] 1459th meeting (March 2023) (DH), Action Report (20/01/2023) - Communication from Italy concerning the case of *Marcello Viola v. Italy (no. 2)* (Application No. 77633/16), p. 15, https://hudoc.exec.coe.int/?i=DH-DD(2023)91E .
[53] See 1483rd meeting (December 2023) (DH) - Rule 9.2 - Communication from an NGO (Hands Off Cain) (12/10/2023) in the case of Marcello Viola v. Italy (no. 2) (Application No. 77633/16), https://hudoc.exec.coe.int/?i=DH-DD(2023)1265E .
[54] ECLI:NL:HR:2017:3185; KLP Advocaten, https://klpadvocaten.nl/en/expertises/life-imprisonment/.
[55] ECLI:NL:HR:2017:3185. Before 2016, the Dutch system offered no structured review of life sentences, rendering them effectively irreducible. This changed following the Dutch Supreme Court's 2016 ruling in ECLI:NL:HR:2016:1325, which held that a life sentence without any real prospect of release violates Article 3 ECHR. The Court cited ECtHR precedents, especially *Vinter* and the applicable *Murray v. the Netherlands*, concluding that life sentences must be reviewable and not solely dependent on a near-fictional pardon system
[56] Ibid.
[57] KLP Advocaten (n. 54).

of Criminal Justice and Youth Protection (Rsj), acting as a penitentiary judge who can review refusals of reintegration leave and other prison-based reintegration measures.

45. Procedural safeguards are embedded within the mechanism. Detainees are informed of their eligibility and may also request a pardon themselves. If the pardon process is excessively delayed, the prisoner can seek intervention from the civil court, which may set a deadline for the ministerial decision. Additionally, the civil court reviews negative pardon decisions to ensure they are not arbitrary or excessively delayed.[58] These dual layers of oversight - civil and penitentiary judicial review - bolster compliance with Article 3 by providing prisoners effective legal remedies.

46. If a prisoner is denied release following the initial review at 27 years, further periodic reviews are anticipated, though the regulations do not specify fixed intervals. The expectation, however, prompted by ECtHR jurisprudence, is that follow-up reviews occur at reasonable intervals to ensure continued detention remains justified. The Dutch Supreme Court has affirmed that this structure, taken as a whole, provides a "genuine, structured mechanism" for reassessing life sentences and should satisfy the requirement that such sentences not be irreducible.[59]

47. Additional reforms were introduced through the 2021 Law on Punishment and Protection, which expanded the scope of factors considered during decisions related to reintegration leave, penitentiary programs, and conditional release. This law mandates that three specific elements must guide decision-making: (1) the inmate's behaviour during detention, (2) the risk posed to society, and (3) the interests of victims and their families.[60] Coordination among the Public Prosecution Service, the Judicial Debt Collection Agency (CJIB), and the Information Point on the Course and Progress of Detention (IDV) ensures that victims are informed and consulted in this process.[61]

48. Despite the existence of this multi-tiered and procedurally safeguarded mechanism, release is not automatic and remains a matter of ministerial discretion. The system is designed to balance hope and accountability, offering prisoners a path to rehabilitation while retaining strict oversight. Lifelong prisoners must demonstrate sincere personal reform - through therapy, expressions of remorse, and constructive participation in institutional life - in order to be considered for release.[62]

49. The Dutch review mechanisms have generated significant criticism as regards the opacity, political control of release decisions, and the limited reintegration options. Firstly, a 2021 evaluation concluded that while the Advisory Board's decision-making framework was "broadly functional," the reintegration phase lacked clarity and was too short to meaningfully contribute to the clemency process.[63] Additionally, in 2022, the Council for the Rsj issued the report Revising Life Imprisonment, recommending that decisions about release be made by judges rather than ministers to ensure impartiality and due process.[64] The same

[58] ECLI:NL:HR:2017:3185
[59] Ibid.
[60] Law on Punishment and Protection, CEP website, http://cep-probation.org/the-dutch-new-law-on-punishment-and-protection/
[61] Ibid.
[62] KLP Advocaten (n. 53).
[63] https://www.commissievantoezicht.nl/dossiers/Levenslang/hoofdartikel-levenslang/
[64] https://www.commissievantoezicht.nl/dossiers/Levenslang/hoofdartikel-levenslang/; https://www.hogeraad.nl/actueel/nieuwsoverzicht/2017/hoge-raad-oplegging-levenslange-gevangenisstraf-blijft-mogelijk/

recommendation was echoed by then-Minister Dekker in 2021 and reiterated by Minister Weerwind in 2023, who announced plans to introduce a bill transferring release authority to the judiciary, although progress was delayed due to cabinet formation issues.[65]

50. Furthermore, transparency remains a key point of contention. The National Ombudsman has repeatedly criticized the lack of openness and timeliness in clemency cases. In both 2019 and 2021, the Ombudsman condemned how the Public Prosecution Service handled certain applications, urging the government to establish a "real and timely review system" in accordance with ECHR obligations.[66] Civil society actors have similarly voiced concern. The Forum Levenslang has consistently argued that the current enforcement of life sentences violates Article 3 ECHR and calls for conditional release to be made structurally available. Consequently, while Dutch law technically includes a review mechanism, critics question whether the existence of the procedure is meaningful in practice. If no life-sentenced individuals are ever released, the system risks reverting to a de facto irreducible sentence, once again raising Article 3 compliance issues.

51. Lastly, practical reintegration also remains limited. During the first 25 years, life-sentenced individuals are barred from participating in standard leave or meaningful programs. After the review point, they may receive highly restricted one-day reintegration leave, monitored with strict conditions. Although prison directors are encouraged to implement individualized regimes and consider special visitation rights, the psychological and social harms of indefinite detention persist. The CoE has emphasized the importance of reintegration opportunities and flexible regimes, especially for long-term prisoners, but implementation remains uneven in practice.[67]

Hungary

52. Hungarian law permits two forms of life imprisonment:

(i) a "whole life sentence" (aggravated life imprisonment) without the possibility of parole, reserved for particularly serious offences,[68]

(ii) a "simple life sentence" affording the possibility for the conditional release of the prisoner after having served between 25 to 40 years.[69]

53. As regards the whole life sentence without the possibility of parole, in 2014, the ECtHR found a violation of Article 3 of the Convention, as this form of life sentence was *de jure* and *de facto* irreducible.[70] In its ruling, the ECtHR held that the presidential clemency regulation in Hungary would not be sufficient to satisfy the requirements under Article 3, as it would not allow any prisoner to know what he or she must do to be considered for release and under what conditions.[71] Following this judgment, the legislation was amended in 2015 and an automatic review mechanism ("mandatory clemency procedure") for prisoners serving whole life

[65] Ibid.
[66] Ibid.
[67] https://www.commissievantoezicht.nl/dossiers/Levenslang/hoofdartikel-levenslang/
[68] Although terrorism is explicitly listed among the offenses that may result in a life sentence without parole, Hungary does not limit such sentences to anti-terrorism convictions. Rather, life imprisonment is broadly applicable to a range of serious violent offenses, including non-political crimes such as aggravated homicide, kidnapping, and mutiny.
[69] https://hudoc.exec.coe.int/?i=004-10897; English translation of the Hungarian Criminal Code: Act C of 2012 on the Criminal Code, Ministry of Interior, 2025, https://njt.hu/jogszabaly/en/2012-100-00-00; Ferenc Dávid, 'The Life Imprisonment in the Hungarian Criminal Law' (2023) 67 Strani pravni život 1
[70] *László Magyar v. Hungary*, Application no. 73593/10, 20 May 2014, paragraphs 54-59.
[71] Paragraphs 54-59.

sentences was introduced.[72] This mechanism provides for a special pardon procedure to be carried out *ex officio* after serving 40 years of the sentence, where the President has the last say as to a possible pardon in every individual case.[73]

54. This new review mechanism introduced for the whole life sentence was examined by the ECtHR in the case of *T.P. and A.T. v. Hungary* in 2016.[74] According to the ECtHR, the fact that the applicants could hope to have their progress towards release reviewed only after serving 40 years of their life sentences was, of itself, sufficient for the Court to conclude that the new legislation did not offer *de facto* reducibility of the applicants' whole life sentences. That period was significantly longer than the maximum recommended period of 25 years established, on the basis of a consensus in comparative and international law, by the Grand Chamber in *Vinter and Others*. The Court also noted that, unlike the position in *Bodein v. France*, there was no indication in the present case that any period of pre-trial detention would be taken into account in calculating the time-limit for review. In addition, the Court underlined other problematic issues concerning the remainder of the procedure provided by the new legislation. Firstly, the new legislation does not oblige the President of the Republic to assess whether continued imprisonment is justified on legitimate penological grounds. Secondly, it does not set a time-frame in which the President must decide on the clemency application or to oblige him or the Minister of Justice - who needs to countersign any clemency decision - to give reasons for the decision, even if it deviates from the recommendation of the Clemency Board.

55. Under the simple life sentence regime, if the sentencing court has not excluded the possibility of parole, Section 43 of the Criminal Code allows for release on parole after serving a minimum of 25 and a maximum of 40 years. The exact period of eligibility is determined in the sentencing judgment. According to Section 57(8) of the Enforcement of Punishments Act, if the prison judge denies parole during the proceedings, the inmate's eligibility must be reviewed again after two years, and then annually thereafter.

56. In 2021, the Court examined the simple life sentence regime *in Bancsók and László Magyar (No. 2),* in which the applicants' eligibility for parole was set at 40 years.[75] The Court held that "the fact that the applicants […] can hope to have their progress towards release reviewed only after they have served forty years of their life sentences is sufficient for the Court to conclude that the applicants' life sentences cannot be regarded as reducible for the purposes of Article 3 of the Convention".[76] Following *Bancsók and László Magyar (No. 2)*, the ECtHR ruled in other similar cases by applicants whose eligibility for parole was set at longer period than the maximum recommended time-frame for review of a life sentence, namely 25 years, and found a violation of Article 3 in all of these cases.[77] It should be noted that the Court has found a violation even in a case where the parole eligibility was set at 25 years and 6 months.[78]

57. Overall, the Hungarian system continues to be problematic, and the implementation of the cases mentioned above is still pending before the Committee of Ministers. During their last

[72] Act no. CCXL of 2013 on the Execution of Punishments, Measures, Certain Coercive Measures and Confinement for Infractions, as amended by Act no. LXXII of 2014. Entered in force 1 January 2015.
[73] Ibid. See Section 46/D-G. A special Clemency Board, a five-membered board, was set up under the new legislation, adopting dopt a reasoned opinion containing a recommendation on the granting of clemency.
[74] *T.P. and A.T. v. Hungary*, Application nos. 37871/14 and 73986/14, 4 October 2016.
[75] *Bancsók and László Magyar (No. 2)*, Application nos. 52374/15 and 53364/15, 28 October 2021.
[76] Ibid. paragraph 47.
[77] *Blonski and Others*, Application no. 12152/16 and 6 others, 13 October 2022; *Horváth and Others*, Application no. 12143/16 and 11 Others, 2 March 2023; *Horváth and Others*, Application No. 33640/20 and 24 others, 20 June 2024.
[78] *Horváth and Others*, Application no. 33640/20 and 24 others, 20 June 2024.

examination in June 2025, the Committee of Ministers noted that the Hungarian authorities need to address the following two issues:[79]

- the maximum recommended waiting period of 25 years after which lifers should be eligible for release on parole; and
- the lack of sufficient procedural safeguards in the "mandatory clemency procedure" (*T.P. and A.T.,* paragraph 49) which remains despite the recent amendments of the Fundamental Law and Resolution 181/2024 (VII.18.) of the President of the Republic.[80]

VI. Recommendations

In relation to **general measures**, the NGOs invite the Committee of Ministers, drawing on the ECtHR caselaw as well as lessons learned from the comparative examples outlined above, to urge the Turkish authorities to adopt the following reforms to ensure full execution of the *Gurban group* of judgments, and to intensify its efforts to ensure their implementation, taking into account the seriousness of the violations and the large number of individuals affected by the ongoing failure to establish a Convention-compliant system:

i. Adopt legislative and other adequate measures to ensure that all forms of life sentences are *de jure* and *de facto* reducible, in accordance with Article 3 of the Convention.

ii. Introduce legislative reforms to establish a functioning, accessible, and judicially reviewable mechanism for the review of all aggravated life sentences, in line with the Court's case law and evolving European standards. This mechanism should:

   (a) Be independent of political discretion and ensure that decisions are made by a competent judicial authority or a body subject to judicial oversight, rather than by the executive;

   (b) Guarantee an initial review no later than 25 years after the imposition of the life sentence, with further periodic reviews at reasonable intervals thereafter;

   (c) Enable the competent authorities to assess, based on individualised and objective criteria, whether the life-sentenced person's behaviour, personal development, or other relevant changes are of such significance that continued detention is no longer justified on legitimate penological grounds;

   (d) Apply uniformly and without discrimination to all categories of life-sentenced individuals, including those convicted of offences under Turkish Penal Code provisions concerning "State security," "constitutional order," and "national defence" and Anti-Terrorism Law No. 3713, and thereby ensuring universal eligibility for review;

   (e) Be governed by legal rules that are sufficiently clear, foreseeable, and precise, and include publicly available criteria for assessing release eligibility, such as:

[79] 1531st CM-DH meeting, 10-12 June 2025, https://hudoc.exec.coe.int/?i=004-10897 .

[80] As of July 2024, the Fundamental Law was amended removing the requirement of the countersignature by the Minister of Justice and a provision was added stipulating that a law adopted with two-thirds majority shall define the list of intentional criminal offences committed against children in respect of which the President of the Republic may not grant individual clemency (Article 9(3)(n), 9(5) and 9(8) of the Fundamental Law of Hungary). Also, the President of the Republic issued Resolution 181/2024. (VII. 18.) on the criteria to be applied when exercising the right of individual clemency (Resolution 181/2024. (VII. 18.) KE, available in Hungarian via the following link).

- time served;
- conduct in detention;
- reduction in risk to society; and
- consideration of legitimate penological objectives (punishment, deterrence, public protection);

(f) Be supported by robust procedural safeguards in line with Convention standards, including:

- access to legal assistance throughout the review process;
- the right to be heard;
- access to relevant documentation and reasoned decisions;
- and the right to appeal or seek judicial review of negative decisions;

(g) Be accompanied by procedural clarity regarding the obligations and expectations placed on prisoners, including clear information about what steps or conduct may be taken into account in review decisions and under what conditions release may be granted.

iii. Ensure that the prison regime for life-sentenced prisoners is compatible with the objective of supporting their personal development and reintegration into society, by enabling them to demonstrate meaningful progress in conduct, responsibility, and readiness for release.

iv. Ensure that any legislative or institutional reforms concerning aggravated life imprisonment and sentence review mechanisms are developed and implemented through a transparent and inclusive process that guarantees effective consultation with bar associations, civil society organisations, and independent experts.

v. Provide the Committee of Ministers with detailed data on the following groups:

- The number of individuals currently serving aggravated life sentences without access to a review mechanism;
- The number of persons currently on trial, or subject to sentencing requests, for aggravated life imprisonment under the same regime; and
- For each group, include additional information on dates of sentence imposition or initiation of proceedings.