

Criminal Detention in the EU: Conditions and Monitoring

Update of FRA's Criminal Detention Database
(FRANET)

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Part I: National standards

1. Cells

a. Cell space

Pursuant to the 1987 Convention of the Council of Europe, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was established. In the case of shared accommodation, the CPT determines the value of spatial utilization as follows: 6 m² per detainee; still acceptable: 9 m² for 2 detainees, 12 m² for 3 detainees, or 16 m² for 4 detainees; the most ideal: 9-10 m² per detainee.¹

In accordance with Article 121 of Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine, the number of individuals that can be accommodated in a cell or a living space – including the infirmary – must be determined in such a way that each convicted person has **six cubic metres of airspace**, and in the case of individual accommodation, at least **six square metres** of living space per person for jointly accommodated convicts, at least four square metres of living space per person. When calculating living space, the area occupied by the toilet and washroom in the cell or living space – regardless of whether they are separate – must be disregarded.²

b. Access to natural light and fresh air, cell equipment, furniture, and facilities

There is no specific national standard regarding access to natural light and fresh air in the cells. About the equipment of the cells, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine specifies the furnishings and equipment of cells and living quarters, which are as follows: per person: bed, seat, wardrobe, washbasin. For common use: table, waste container, ashtray, mirror, cleaning tools.³

c. Video-surveillance of cells

Yes, also Article 150 of Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine

¹ For more details on the relevant regulation, see the following (Hungarian-language) online document: Hungary, Hungarian National Assembly (*Országgyűlés Hivatala*) (2017), Conditions of detention in the penitentiary system ([A fogvatartás körülményei a büntetés-végrehajtásban](#)), 3 March 2017.

² Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)].

³ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Appendix 3.

stipulates that for the purpose of monitoring the movement and activities of convicts within the institution and preventing escape, electronic surveillance devices may be placed in the common areas reserved for convicts within the correctional facility, in the courtyard of the correctional facility, in the corridors, on the external walls and gates enclosing the correctional facility, as well as at the work site under the control of the correctional authority. For this specific purpose, an electronic surveillance device operated by another law enforcement agency may be used at an external work site not under the control of the correctional authority. Furthermore, to ensure the order of execution of penalties and to prevent crimes, offences, disciplinary violations or other legal infringements, electronic surveillance devices may also be placed in areas posing a particular danger to the security of detention, in the security unit, in the HSR section, in the disciplinary unit, in the cells designated for the execution of disciplinary solitary confinement and in vehicles used for the transportation of convicts. In the cell of a convicted person who has previously attempted suicide or committed self-harming acts against their physical integrity, as well as in cases where there is a high risk of suicidal or self-harming behaviour, electronic monitoring devices may be placed if continuous monitoring of the behaviour of the convicted person is necessary to protect their life and physical integrity. The use of electronic monitoring devices is mandatory when ensuring the security isolation, disciplinary segregation with solitary confinement and disciplinary segregation involving single-person placement of a convicted person who has previously attempted suicide or committed self-harming acts.

Exceptions include that electronic monitoring devices may not be used to monitor medical offices, medical diagnostic facilities and, except as specified in this law, other healthcare facilities, restroom facilities and bathing facilities. In order to monitor a convicted person who has previously attempted suicide or committed acts against their own or others' physical integrity in the infirmary and patient room of the correctional facility – with consideration for the privacy of other patients not directly affected by the monitoring order – electronic monitoring devices may be placed.

It is also important information that an electronic surveillance device can be installed on an unmanned state aircraft operated for the purposes defined in Act CVII. of 1995 on the Penal Enforcement Authority. The electronic surveillance device can be linked for the purpose of personal identification with a facial recognition system for determining the location of the convicted person within the prison or employment site under the control of the penal authority, monitoring their movements and activities, and identifying the perpetrator of a criminal offence, misdemeanour or disciplinary offence occurring in the prison or at the employment site under the control of the penal authority, as well as the participant in an extraordinary event.

The recording captured by the electronic surveillance device and the personal data contained therein can be used in proceedings:

- a) initiated for a criminal offence or misdemeanour committed at the location of device application;
- b) initiated for a disciplinary offence committed by the convict or a person belonging to the staff of the penal enforcement authority at the location of device application; and
- c) initiated to determine the legality of the actions of a person belonging to the staff of the penal enforcement authority at the location of device application.

The recording made by an electronic surveillance device and the personal data contained therein may also be used in proceedings initiated by the person appearing in the recording to exercise their rights. The person appearing in the recording, who needs the recording to exercise their rights, may request within thirty days of the recording, with proof of their right or legitimate interest, that the data not be deleted by its controller. During proceedings initiated to exercise rights, the recording may be forwarded to a court or other authority upon request.

Recordings made with an electronic surveillance device must be deleted no later than **60 days** after the recording, if the proceedings mentioned earlier have not been initiated or if the person appearing in the recording has not availed themselves of the opportunity. If the data is used for a specific purpose, the recording made by the electronic surveillance device must be deleted following the conclusion of the proceedings. If criminal proceedings are initiated, the recorded image or sound material, or copies thereof, must be sent to the competent authority upon request for attachment to the records. The penal institution must take the necessary organisational, technical and other data security measures in handling the recording to protect the personal data of the individual, particularly their privacy and intimate details, from unauthorised access. The recording made with an electronic surveillance device may be used for educational or training purposes in a manner unsuitable for personal identification.⁴

d. NPM assessment

In all the reports,⁵ the National Preventive Mechanism (hereinafter: NPM) examined the physical conditions of the accommodation, in some cases also identifying offending conditions, mainly due to overcrowding, the basic physical characteristics of the old buildings and their severe deterioration. During the investigation of the Tolna County Penitentiary Institute⁶ the NPM found that the legal

⁴ Hungary, Act CCXL of 2013 on the execution of penalties, measures, certain coercive measures and misdemeanour detention (*2013. évi CCXL. törvény a büntetések, az intézkedések, egyes kényszerintézkedések és a szabálysértési elzárás végrehajtásáról*) (hereinafter: Prison Act).

⁵ The reports can be found on the webpage of the National Preventive Mechanism: [Comprehensive Report of the Commissioner for Fundamental Rights on the Activities of the OPCAT National Preventive Mechanism, Visits –2023](#) and [Visits – 2024](#).

⁶ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1152/2023 in connection with the visit of the Tolna](#)

requirements for adequate living space were not met in three of the cells. One was a conveyor cell with a living space of 5.74 m² for 1 person, another was a 4 m² “raving” cell with a living space of 4 m² for 1 person, and the third was a cell with a living space of 5.63 m² for 1 person. In the NPM's view, although the size of the cells was below the size required by law and international standards, they were not so small as to rise to the level of degrading treatment. The NPM also found an anomaly in one cell in report AJB-1028/2023,⁷ where the living space was 2.8 m²/person, if the maximum of 6 persons were housed in the cell. The NPM investigated the previous system of round trips in the Budapest Prison and Detention Centre,⁸ where a number of shortcomings were found in relation to housing, including inadequate temperatures and several cells that did not comply with the requirements for floor space per person. The NPM drew attention to the need to ensure adequate living space for detainees in all cases, with particular attention to detainees covered by the guarantee. The NPM also drew attention to the need to pay particular attention to ensuring that detainees are provided with the necessary living space if they have a health problem or a medical condition that may be aggravated by confinement. In addition to the occasional shortcomings, the NPM also found good solutions and assessed as good practice the co-housing of detained mothers with their children in the mother-child unit of the Bács-Kiskun County Penitentiary Institute, Facility II.⁹

According to the relevant Ministerial Decree, in Hungarian prison cells a minimum of six cubic metres of airspace and four (or, if the detainee is placed alone, six) square metres of living space shall be provided. When calculating the living space, the area occupied by toilets and washbasins cannot be included in the floor area of the cells, but the area occupied by other furnishings, such as beds or lockers, counts, which suggests that the actual living space available to detainees may be less than the legal minimum.¹⁰ The total capacity of a penitentiary institution is set based on the aforementioned calculation, meaning

[County Penitentiary Institute \(Previous case: AJB-462/2022\)](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1152/2023. számú ügyben a Tolna Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben [Előzmény ügy: AJB-462/2022.]), p. 9–10.

⁷ Hungary, Commissioner for Fundamental Rights in Hungary (Alapvető Jogok Biztosa) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1028/2023 in relation to the visit to the Vác Prison and Detention Centre](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1028/2023. számú ügyben a Váci Fegyház és Börtön látogatásával összefüggésben), p. 10–11.

⁸ Hungary, Commissioner for Fundamental Rights in Hungary (Alapvető Jogok Biztosa) (2023), [REPORT from the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1053/2023 in relation to the visit to the Budapest Prison and Detention Centre as the central site for the implementation of the round-up](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1053/2023. számú ügyben a Budapesti Fegyház és Börtön mint a körszállítás végrehajtásának központi helyszíne látogatásával összefüggésben), p. 6–11.

⁹ Hungary, Commissioner for Fundamental Rights in Hungary (Alapvető Jogok Biztosa) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in the context of his visits to the Bács-Kiskun County Penitentiary Institute in case AJB-1056/2023](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1056/2023. számú ügyben a Bács-Kiskun Vármegyei Büntetés-végrehajtási Intézetben tett látogatásaival összefüggésben), p. 12.

¹⁰ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) IM on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbírás helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 121.

that the failure to provide sufficient living space results in prison overcrowding, a long-standing issue in Hungary. Data published by the Government show that in the first half of 2023 until the end of June, the Hungarian prison occupancy rate was at an overall average of 106%.¹¹ On 31 October 2023, 14 penitentiaries were operating with an occupancy rate above 100%.

Table 1 – Operational capacity, number of detainees and occupancy rates in Hungarian penitentiaries, 31 October 2023¹²

Penitentiary institution	Operational capacity	No. of detainees	Occupancy rate
Állampuszta National Prison	1 207	1 134	94%
Bács-Kiskun County Remand Prison	223	214	96%
Balassagyarmat Strict and Medium Regime Prison	313	336	107%
Baranya County Remand Prison (Pécs)	184	177	96%
Békés County Remand Prison (Gyula)	107	117	109%
Borsod-Abaúj-Zemplén County Remand Prison (Miskolc)	967	923	95%
Budapest Strict and Medium Regime Prison	1 020	1 064	104%
Central Hospital of the Prison Service		5	-
Juvenile Prison (Tököl)	100	79	79%
Budapest Remand Prison	1 293	1 387	107%
Győr-Moson-Sopron County Remand Prison	165	135	82%
Hajdú-Bihar County Remand Prison	180	185	103%
Heves County Remand Prison (Eger)	143	151	106%
Forensic Observation and Mental Institution (IMEI)		254	-
Jász-Nagykun-Szolnok County Remand Prison	130	125	96%
Kalocsa Strict and Medium Regime Prison	277	301	109%
Kiskunhalas National Prison	859	805	94%
Middle-Transdanubian National Prison I. (Baracska)	1 088	1 085	100%
Middle-Transdanubian National Prison II. (Székesfehérvár)	127	118	93%
Márianosztra Strict and Medium Regime Prison	505	528	105%
Pálhalma National Prison	1 332	1 292	97%
Sátoraljaújhely Strict and Medium Regime Prison	299	306	102%
Somogy County Remand Prison (Kaposvár)	134	128	96%
Sopronkőhida Strict and Medium Regime Prison	616	624	101%
Szabolcs-Szatmár-Bereg County Remand Prison	167	204	122%
Szeged Strict and Medium Regime Prison	1 350	1 452	108%
Szombathely National Prison	1 476	1 439	97%
Tiszalök National Prison	1 110	1 163	105%
Tolna County Remand Prison (Szekszárd)	96	85	89%
Tököl National Prison	1 273	1 336	105%
Vác Strict and Medium Regime Prison	646	700	108%
Veszprém County Remand Prison (Veszprém)	512	462	90%
Zala County Remand Prison (Zalaegerszeg)	99	93	94%
TOTAL:	17 998	18 407	102%

¹¹ Paragraph 15 of Communication from Hungary concerning the group of cases of Istvan Gabor Kovacs (Application No. 15707/10) and Varga and Others v. Hungary (Application No. 14097/12), [DH-DD\(2023\)1213](#).

¹² Source: Response no. 30500/5563-7/2023 issued by the NPA to the HHC's FOI request on 4 December 2023.

The reasons for **Hungarian prison population inflation** based on the HHC's (Hungarian Helsinki Committee) research results¹³ are systemic institutional deficits and a lack of professional focus on developing better implementation of alternatives to imprisonment which leads to their underuse¹⁴ during the trial phase, at sentencing and at the penitentiary judge's decision making regarding whether to apply any form of early release.

2. Allocation of detainees

a. Geographical allocation

Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine, according to Article 97 states that imprisonment shall be carried out by the penal enforcement organisation. Imprisonment shall be carried out in categories determined by the court based on the enforcement level specified, preferably in the correctional facility closest to the convicted person's place of residence, designated by the penal enforcement organisation pursuant to the legislation or the order of the national commander.¹⁵

b. Allocation within detention facilities

Act CCXL of 2013 on the execution of penalties, measures, certain coercive measures, and misdemeanour detention (hereinafter: Prison Act) Article 99 provides that unless otherwise provided for by this Act, imprisonment shall be enforced by separating convicts within different security classes from each other, male convicts from female convicts, juvenile convicts from adult convicts, military convicts from non-military convicts, smoking convicts from non-smoking convicts. Separation shall be performed in separate blocks or their separated parts or in separate cells or residential units. For psychiatric treatment, convicts within different security classes may be placed together in the infirmary, sick ward, quarantine for infectious patients and an especially designated cell, and may jointly wait for medical examinations and healthcare consultations. Irrespectively of their security classes, convicts may be placed together inside the particular unit, in the therapeutic and provisional unit, the drug prevention unit, the psychosocial unit and the long-term conviction unit when milder enforcement rules are applied

¹³ Policy brief of HHC for enhancing the use of non-custodial alternatives to imprisonment, available here (in Hungarian): Hungary, HHC (2023), '[Szakpolitikai ajánlásaink az alternatív szankciók jobb kihasználtsága érdekében](#)' ('Our policy recommendations for better use of alternative sanctions'), 21 March 2023.

¹⁴ For this report, we analysed longitudinal statistical data from the reports of 2014, 2016, 2021 and 2022, available online: Hungary, Office of the Prosecutor General (*Magyarország Ügyészsége*), [Statistics on prosecution before criminal courts \(Büntetőbíróság előtti ügyészi tevékenység főbb adatai\)](#).

¹⁵ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) IM on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 72.

and when mothers and children are placed together. Convicts within different security classes may work together at their place of work, jointly participate in primary and secondary education and instruction, higher education, vocational training, sports, cultural and religious events, and may jointly stay outdoors and in the common restaurant. In addition, a law may determine other separation criteria.¹⁶

In addition, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine, declare that, under the enforcement of the custody, the following groups shall be separated from each other: people sentenced to custody shall be separated from convicts with prison sentence and convicts with pre-charge detention.¹⁷ In addition, the convict serving a sentence for life or a term of not less than 15 years may be transferred to the unit of long-term sentenced prisoners if their conduct, co-operativeness in enforcing their imprisonment and their security classification justify their special treatment and accommodation. The unit of long-term sentenced prisoners shall be a separated section of the specially equipped cells and the adjacent rooms, created for this purpose at the law enforcement institution designated by the Chief Commander of the Hungarian Prison Service in their measure. The transfer of the convict to the unit of long-term sentenced prisoners may be ordered by the admission and detention committee, and shall promptly be terminated by the committee if the conditions for the accommodation no longer exist.

c. NPM assessment

The NPM did not make any findings on the geographical distribution of prisoners in the reference period, but the interviews with prisoners showed that in the majority of cases, the National Prison Service (hereinafter: BVOP) made an effort to place prisoners close to their place of residence and relatives, which was only interrupted by transfers due to overcrowding and arrests for offences.

The rules on segregation by security level, gender, and the separation of detainees from those who have been arrested and those who have been convicted, and from juveniles to adults, were complied with in the reference period and were not specifically noted in the reports. In one case,¹⁸ the NPM proposed to increase the number of disciplinary cells, as there was a problem with the separation of prisoners (for security, disciplinary or health reasons) because the capacity of the Institute's cells had not increased in parallel with the prisoner capacity. There were 5 disciplinary cells for about 900 prisoners, which made

¹⁶ Hungary, [Prison Act](#).

¹⁷ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)].

¹⁸ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), Report No. AJB-2252/2023, p. 8. (Not available online.)

the isolation of prisoners extremely difficult. Ideally, 15 to 20 cells could be used to achieve single isolation without problems. In order to ensure effective implementation of the separation of prisoners, the NPM has recommended that the number of disciplinary cells should be increased where possible. Prison sentences are executed according to the categories based on the degree of custody determined by the court, in the penitentiary institution designated by the penitentiary organisation, preferably nearest to the convicted person's address, on the basis of the law and the Lieutenant General of the NPA's decision.¹⁹ Accordingly, the **geographical allocation** of detainees is in the discretion of the NPA. A so-called occupancy-balancing programme where in essence prisoners are transferred from more overcrowded penitentiaries to less overcrowded ones, has been one of the measures taken by the NPA to reduce overcrowding since 2008.²⁰

With regards to the **allocation within detention facilities**, as a main rule, during the execution of a custodial sentence:

- the persons classified into different categories
- men and women
- juveniles and adults
- soldiers and convicts who are not soldiers
- smokers and non-smokers
- inpatients and healthy persons
- infectious patients and non-infectious patients

shall be separated from each other. The separation shall be carried out in a separate department, a separate part thereof, or in a separate cell or living quarters.²¹

However, the law provides for a series of exceptions from the above rule. For example, prisoners of categories I and II; prisoners of categories III and IV; prisoners of categories IV and V can be placed together. For the purpose of medical treatment, prisoners of different categories may be accommodated together in the ward, sick room, infection isolation room or in the cell designated for this purpose, and may wait together for medical examination.²²

Regardless of their classification, prisoners may be accommodated together in the following special regimes: in the therapeutic unit, the transitional unit, the drug prevention unit, the psychosocial unit, the religious unit, the first-time offenders unit, the elderly unit, both in the cell and in the residential unit. Regardless of the category classification, within the same unit, prisoners may be housed together

¹⁹ Hungary, [Prison Act](#), Article 97 (1).

²⁰ Paragraph II/a of the Government Action report in the Varga and Others and István Gábor Kovács group v. Hungary cases (Applications Nos. 14097/12, 15707/10), [DH-DD\(2015\)622](#), 25 March 2015.

²¹ Hungary, [Prison Act](#), Article 101 (1)–(2).

²² Hungary, [Prison Act](#), Article 101 (3)–(4).

in the long-sentenced prisoners unit, the juvenile prisoners unit and the mother and child unit.²³ Smoking and non-smoking inmates may be accommodated together in the ward, the infirmary, the infection isolation room and in the cell designated as such in the house rules, if indoor and outdoor smoking areas are designated for smoking inmates and the inmate's individual security requirements do not preclude him from using such smoking areas on a regular basis.²⁴

3. Hygiene and sanitary conditions

a. Access to toilets

Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine stipulates in Article 120, that in penitentiary institutions departments, wards, cells and living quarters must be established for the placement of convicts. In the cell – with the exception of cells designated for convicts displaying self-endangering or endangering behaviour – a washbasin supplied with running water and a separate, preferably independently ventilated toilet must be installed. In disciplinary cells, a washbasin supplied with running water and a toilet must be installed. In living quarters, running water necessary for hygiene, baths and toilets may also be provided per ward.²⁵

b. Access to showers and warm and running water

Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine, Articles 131 and 132 stipulate that convicted persons must be provided with the necessary conditions for personal hygiene and compliance with personal hygiene must be enforced. For convicted persons without deposit money, basic toiletries and equipment must be provided. Convicted persons must be provided with a warm shower at least three times a week; for female convicts and working convicts after work, a warm shower must be provided daily. Between regular showers for convicted persons, warm water can be provided as specified in the schedule within the possibilities of the correctional facility. Female convicts must also be provided with warm water between regular showers. Convicted persons can have access to a hairdresser for haircuts at least once a month free of charge.²⁶

²³ Hungary, [Prison Act](#), Article 101 (5).

²⁴ Hungary, [Prison Act](#), Article 101 (7).

²⁵ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbírás helyébe lépő elzárás végrehajtásának részletes szabályairól](#)].

²⁶ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbírás helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 76.

c. Access to sanitary products

Annex 7 to Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine declares that basic hygiene and equipment items provided by the penitentiary institution to convicted individuals without deposit money are: soap, toothbrush, toothpaste, toothbrush cup, comb upon request, toilet paper, medical cotton for women, tampons, sanitary pads, shaving equipment, shampoo.²⁷

d. Hygienic conditions in cells

Prison Act, Article 158 refers that the convicts may be placed together, but where possible, the convict shall be accommodated alone. The convicts shall be accommodated with bed linen and one-bunk beds. Appropriate seasonal uniforms, underwear and footwear shall be given to the convict. Should the law enforcement institution not be temporarily able to provide uniforms, then the convict may wear his/her own uniform for this period.²⁸

e. NPM assessment

The NPM pays particular attention to the hygiene situation of detainees during all its visits. This was particularly true for the Covid-specific inspections, during which the NPM also examined the preventive measures taken by the facility, the detainees' access to disinfectants and the pace and mechanism of disinfection.

It can be said that the visits did not find any violation of fundamental rights with regard to the provision of protective equipment and disinfection of the facility due to the Covid epidemic,²⁹ but there were

²⁷ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbírás helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Annex 7.

²⁸ Hungary, [Prison Act](#).

²⁹ An exception to this was the study of the National Penitentiary Institution in State Amnesty (Hungary, Commissioner for Fundamental Rights in Hungary [[Alapvető Jogok Biztosa](#)] [2023], [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1224/2023 in connection with the visit of the National Penitentiary Institute of Állampuszta \[Alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1224/2023. számú ügyben az Állampuszta Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben\]](#), pp. 10–11), where the possibility for prisoners to bathe at least 5 times a week was confirmed during the interviews, but there was no consensus on the availability of cleaning products (e.g. soap). Several said that the Institute did not provide soap, the prisoners had to buy themselves, but there were also prisoners who said that they had no soap available for bathing or for the frequent hand washing that the epidemic calls for, and that they could not buy it. Pursuant to Article 155 (6) of the Criminal Code and Article 131 (2) of Ministerial Decree No. 16/2014 (XII. 19.), prisoners without deposit money must be provided with basic sanitary equipment. Personal hygiene is also of paramount importance to reduce the risk of infection. In this respect, the CPT, in its statement on the principles for the management of persons deprived of their liberty in relation to the pandemic of coronavirus, has drawn attention to the need to respect the right of prisoners to maintain adequate personal hygiene. According to SPT CAT/OP/10,

some minor problems in some institutions with respect to the safety distance.³⁰ In addition, in several reports the NPM has drawn attention to the interim recommendation for the prevention and treatment of Covid-19 in prisons and other places of detention, as amended by the World Health Organization (WHO) on 8 February 2021, to clean masks that become soaked during use without delay be replaced with a dry mask, and textile masks should be cleaned with soap or detergent, preferably in hot water at least 60 °C, or, failing this, soaked in boiling water for 1 minute after washing it in soap/detergent in room temperature water.³¹

However, the general or intermittent lack of hot water is sometimes a problem in some prisons. In the Máriánosztra Prison³² working inmates were given the opportunity to bathe daily, and non-working inmates 5 times a week in view of the epidemic situation.

Due to the problem of hot water supply, the NPM has found in several reports³³ that there was an abuse linked to the degrading treatment. In its AJB-1682/2023³⁴ report found that the inability of the prisoners to use the kettle they had previously purchased from the Institute during the period when the Institute was unable to provide hot water for bathing due to a technical problem constituted an infringement of the rule of law and the requirement of legal certainty [Article B (1) of the Fundamental Law] and jeopardised the prohibition of degrading treatment (Article III of the Fundamental Law).

point 9.j), during the Covid-19 epidemic, detainees shall be provided, free of charge, with all means and facilities enabling them to maintain an apt level of personal hygiene, which is appropriate for the population as a whole in the event of an epidemic. The lack of provision of sanitary products, particularly in the context of the existence of an epidemic situation, jeopardised the exercise of the right to health of detainees.

³⁰ E.g. Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1023/2023 in connection with the visit of the Prison of Heves County](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1023/2023. számú ügyben a Heves Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben*), p. 10.

³¹ WHO (2021): [‘Preparedness, prevention and control of COVID-19 in prisons and other places of detention: interim guidance’](#), 8 February 2021, p. 27.

³² Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-874/2021 in relation to the visit to the Máriánosztra Prison and Detention Centre](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-874/2021. számú ügyben a Máriánosztrai Fegyház és Börtön látogatásával összefüggésben*), p. 10.

³³ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2022), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case No AJB-443/2022 in connection with the visit of the Baranya County Penitentiary Institute](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-443/2022. számú ügyben a Baranya Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben*), p. 11; Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1298/2023 in connection with the visit of the Prison Institute of Békés County](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1298/2023. számú ügyben a Békés Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben*), p. 7–8; Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT by the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1151/2023 in connection with the visit to the National Penitentiary Institute in Kiskunhalas \(Follow-up\)](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1151/2023. számú ügyben a Kiskunhalasi Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben (utóvizsgálat)*), p. 7.

³⁴ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1682/2023 in the context of the visit of the Hajdú-Bihar County Prison \(Follow-up\)](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1682/2023. számú ügyben a Hajdú-Bihar Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (utóvizsgálat)*), p. 8.

It was found by the NPM in report No. AJB-1152/2023 that the lack of hair-drying facilities, particularly in winter, jeopardise the right to physical and mental health.³⁵

With regard to hygiene products, the NPM did not find any problems of a level of violation during its inspections, with the exception of the above-mentioned inspection in State Ambulance, and in all cases the institutions provided a cleanliness kit (toothbrush, toilet paper, shampoo, shower gel, soap) to anyone who asked for it. During the personal interviews, several women detainees complained about the poor selection of intimate hygiene products in the outlet shop, with only one type and size of these products available in several places. During the investigation of the National Penitentiary Institute in Tiszalök,³⁶ female detainees complained to the visiting team members that they could only buy intimate pads at very high prices in the outlet shop, which caused them difficulties. According to paragraph 5 of the UN document on the treatment of women in detention, the Bangkok Rules, women in detention should be provided with the necessary facilities to meet their specific hygiene needs, including free intimate pads. According to point 34.1 of the European Prison Rules, positive measures must be taken to meet the specific needs of women prisoners. The CPT has pointed out that failure to provide for women's basic hygiene needs – as the provision of intimate hygiene products – is in itself degrading treatment. For this reason, the NPM drew attention to the fact that the high price and the resulting hindrance to access caused an error in connection with the enforcement of the prohibition of humiliating treatment or punishment.

With regards to the rules of **access to toilets**, cells shall have a washbasin with running water and a separate, preferably individually ventilated toilet. The only exception is those cells for inmates who engage in self-destructive or dangerous behaviour. The disciplinary cell shall be equipped with a washbasin and toilet with running water. Running water, baths and toilets may be provided for sanitary purposes in the living quarters on a departmental basis, i.e. not all cells shall have separate toilets and washbasins.³⁷ In practice, toilets and sanitary facilities are often in very poor condition: they are often dirty, mouldy, the toilet door is missing or broken, there is no ventilation/extractor, showers with high water levels causing fungal infections on detainees' feet.

³⁵ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1152/2023 in connection with the visit of the Tolna County Penitentiary Institute \(Previous case: AJB-462/2022\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1152/2023. számú ügyben a Tolna Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (Előzmény ügy: AJB-462/2022.)], p. 10.

³⁶ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1030/2023 in connection with the visit of the National Penitentiary Institute in Tiszalök \(related case: AJB-1026/2023\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1030/2023. számú ügyben a Tiszalöki Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben (kapcsolódó ügy: AJB-1026/2023)], p. 15.

³⁷ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíráság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 120 (2)–(3).

According to the rules of **access to showers and warm and running water**, in general, inmates shall be provided with a hot water shower at least three times a week. Women and working inmates shall be provided with a hot water shower after work every day. Hot water may be provided to prisoners between regular showers, within the possibilities of the prison, as specified in the schedule. Female convicts shall also be provided with hot water between regular showers.³⁸ However, in the HHC's experience, water temperature is often not adequate, it is often cold, and showers can only take some minutes in practice.³⁹

4. Nutrition

a. Quality and quantity of food

Prison Act, Article 158 says, that three meals a day – at least one of which is hot meal – shall be provided for the convicts, based on the standards established in accordance with their work, health status and age. In the event of an incident – for a period up to three days – only cold meal may be provided to the convict, moreover packaged cold food shall be given to the convict to be transferred or brought to court. Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine, Article 128 provides that the food for the convicted person shall be provided according to the norm established based on the nature of the work performed, the health condition, and the age of the convicted person. The necessary tools for consuming food shall be provided by the penitentiary institution. In case of extraordinary events when the convicts receive only cold food, the necessary tools for consumption shall be provided by the penitentiary institution. A daily portion of cold, packaged food shall be given to the convict being transferred or brought in for criminal proceedings. When assembling the package, it must be ensured that the food items therein can be consumed without heating and utensils. The food standards are contained in Annex 6 of the aforementioned decree. In accordance with a medical recommendation, food appropriate to the health condition of the convict shall be provided within the relevant norm framework. The convict may only carry out the portioning and distribution of meals under supervision. If the convict waives a meal or a specific food item, they must be provided the opportunity to purchase food items at least every three days. If the convict withdraws their waiver statement and requests a meal on the same day, a cold meal can be provided.⁴⁰

³⁸ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 132 (2)–(3).

³⁹ Submission of the HHC in the proceedings of the Committee of Ministers following the enforcement of the cases of István Gábor Kovács and Varga and Others v. Hungary under Rule 9.2 of the Rules of Procedure of the Committee of Ministers, [DH-DD\(2022\)1384](#), p. 8.

⁴⁰ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 74.

b. Drinking water

Yes, it is. All Hungarian prison cells are standardly equipped with cold drinking water. See answer 3. a.

c. Dietary requirements

Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine stipulates that the daily dietary norm per inmate is:

1. For non-working convicts: 9,200–10,000 kJ;
2. For convicts performing light physical work and juvenile convicts: 13,400–15,000 kJ;
3. For convicts performing heavy physical work: 14,700–16,300 kJ;
4. During hospitalization, unless otherwise ordered by the prison doctor: 12,600–13,400 kJ;
5. In case of a diet prescribed by the prison doctor for consumption or fortification: 3,200–16,800 kJ.⁴¹

d. NPM assessment

Based on NPM inspections, in general, prisoners are provided with three meals a day, of which lunch is hot food.⁴² Lunch is prepared in the prison (or on its other premises) in all locations, mostly by prisoners without a professional qualification, on the basis of menus drawn up at the conurbation level with the participation of a dietician. Accordingly, the quality of the food can vary greatly depending on the professional composition of the kitchen staff, which is why there is a need for constant monitoring of the quality of the food by the prison authorities.⁴³ NPM pointed out in several cases⁴⁴ that “better quality

⁴¹ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Appendix 6.

⁴² Pursuant to Article 128 (1) of IM Decree No.16/2014 (XII. 19.), a prisoner shall be provided with at least three meals a day, of which at least one shall be a hot meal.

⁴³ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1152/2023 in connection with the visit of the Tolna County Penitentiary Institute \(Previous case: AJB-462/2022\)](#) [*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1152/2023. számú ügyben a Tolna Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (Előzmény ügy: AJB-462/2022.)*], p. 13: “The prohibition of degrading treatment under Article III of the Fundamental Law may be compromised if the quality of the preparation of the food provided to prisoners is inadequate.”

⁴⁴ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1298/2023 in connection with the visit of the Prison Institute of Békés County](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1298/2023. számú ügyben a Békés Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben), p. 8; Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in the context of his visits to the Bács-Kiskun County Penitentiary Institute in case AJB-1056/2023](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1056/2023. számú ügyben a Bács-Kiskun Vármegyei Büntetés-végrehajtási Intézetben tett látogatásaival összefüggésben), p. 37.

food is known to have a positive impact on prisoner morale”,⁴⁵ which can help reduce conflicts between them and the staff. The NPM also called for the prison service to provide prisoners with sufficient quantities of fresh fruit and vegetables.⁴⁶ In the institutions, dietary and sparing diets are provided on the basis of medical instructions, and religious diets on request, but vegetarian diets are not always provided, which is why the NPM in its AJB-1151/2023 report⁴⁷ found that the institute’s failure to provide vegetarian meals to prisoners jeopardised the prohibition of degrading treatment under Article III of the Fundamental Law.

The food provided by the Institutes can be supplemented by the prisoners by purchasing it in the outlet shop. In this respect, several of the interviewed complained about prices and choice.⁴⁸ In relation to the outgoing shop, the NPM in its AJB-1024/2023⁴⁹ report found that it is an abuse of the principle of non-degrading treatment for prisoners to be unable to store food properly in the absence of a fridge and a sanction is envisaged for staff members. The prohibition of degrading treatment is abused if detainees are not allowed to go down to the outside shop every week. The NPM stated⁵⁰ that it is also an abuse of the prohibition of degrading treatment that prisoners are offered products at full price on the date of their expiry (or very close to that) and have to throw away what they have bought because of that. At the same time, the institutions also provided for the possibility of shopping during quarantine for detainees under medical observation. The detainees handed in a list of the products they wanted from the shop to the reintegration officer, who collected, bought and handed them over.⁵¹

⁴⁵ Balogh A. (2003): ‘Felmérés a fogvatartottak közérzetét javító intézkedések hatásairól’ (‘Survey on the effects of measures to improve the well-being of prisoners’), *Börtönügyi Szemle (Prison Review)*, No. 3, p. 40.

⁴⁶ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1024/2023 in connection with the visit of the National Penitentiary Institute of Central Transdanubia to the Baracska Facility](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1024/2023. számú ügyben a Közép-dunántúli Országos Büntetés-végrehajtási Intézet Baracska Objektumának látogatásával összefüggésben), p. 18–19.

⁴⁷ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT by the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1151/2023 in connection with the visit to the National Penitentiary Institute in Kiskunhalas \(Follow-up\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1151/2023. számú ügyben a Kiskunhalasi Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben (utóvizsgálat)], p. 7.

⁴⁸ E.g. Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1153/2023 in connection with the visit of the Zala County Prison](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1153/2023. számú ügyben a Zala Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben), p. 9.

⁴⁹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1024/2023 in connection with the visit of the National Penitentiary Institute of Central Transdanubia to the Baracska Facility](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1024/2023. számú ügyben a Közép-dunántúli Országos Büntetés-végrehajtási Intézet Baracska Objektumának látogatásával összefüggésben), p. 15.

⁵⁰ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2022), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case No AJB-443/2022 in connection with the visit of the Baranya County Penitentiary Institute](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-443/2022. számú ügyben a Baranya Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben), p. 14.

⁵¹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-874/2021 in relation to the visit to the](#)

In the mother-and-child unit of the Bács-Kiskun County Penitentiary Institute,⁵² the investigation revealed that the feeding of children and the individualised feeding regime are determined by the nurse. The dietetic expert who participated in the investigation found that in the mother-child unit, the older babies were given baby food (staple food) for lunch and the different age groups were provided with age-appropriate food. The afternoon dessert was also baby food, some kind of fruit puree. Babies were given the right formula, hypoallergenic formula was also available. According to point 37 of Recommendation CM/Rec (2018)5 of the Committee of Ministers of the Council of Europe on Children of Prisoners, prisoners with children should be assisted in developing their parenting skills, and be given the opportunity to care for their children and prepare meals for them. According to the Rules of Procedure, food, formula and drinks for children are prepared and heated by the infant nurse or the nurse responsible for the baby. The mother is responsible for feeding the child, as instructed by the paediatrician, the head nurse or the nurse responsible for the baby. While the visiting team did not identify any fundamental rights abuses in relation to the provision of food to children, the NPM suggests that it would be worth considering allowing the detained mother to assist in the preparation of the food. With regard to the supply of drinking water, the NPM only carried out an investigation⁵³ because several detainees complained about not being able to carry drinking water on the bus during their journey. According to the staff, each transport vehicle has a water container of about 20-30 litres, which is filled up and from which the detainees receive drinking water in plastic cups. According to BVOP Instruction No. 3/2021 (I. 7.), Articles 35 and 37, sufficient drinking water and disposable plastic drinking cups must be provided in the detainee transport vehicles for the duration of the transport, and detainees are allowed to carry half a litre of drinking water if the temperature is above 24 °C. In addition to the availability of drinking water, it must be ensured that detainees can drink during medical breaks. The NPM has pointed out that if a diabetic detainee needs to be fed during transport, it must always be ensured that he or she is able to take food with him or her.⁵⁴

[Mariánosztra Prison and Detention Centre](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-874/2021. számú ügyben a Máriaosztrai Fegyház és Börtön látogatásával összefüggésben), p. 20.

⁵² Hungary, Commissioner for Fundamental Rights in Hungary (Alapvető Jogok Biztosa) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in the context of his visits to the Bács-Kiskun County Penitentiary Institute in case AJB-1056/2023](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1056/2023. számú ügyben a Bács-Kiskun Vármegyei Büntetés-végrehajtási Intézetben tett látogatásaival összefüggésben), p. 37–38.

⁵³ Hungary, Commissioner for Fundamental Rights in Hungary (Alapvető Jogok Biztosa) (2023), [REPORT from the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1053/2023 in relation to the visit to the Budapest Prison and Detention Centre as the central site for the implementation of the round-up](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1053/2023. számú ügyben a Budapesti Fegyház és Börtön mint a körszállítás végrehajtásának központi helyszíne látogatásával összefüggésben), p. 15–16.

⁵⁴ Hungary, BVOP Instruction No. 3/2021 (I. 7.) on the implementation of the transport of prisoners [[3/2021. \(I. 7.\) BVOP utasítás a fogvatartottak szállításának végrehajtásáról](#)], Articles 35 and 37.

Nutritional requirements are regulated in detail in two different Ministerial Decrees.⁵⁵ According to law, detainees shall be provided with meals according to the norms based on the nature of the work they are doing, their state of health and age, and even the specific calorie-needs of each detainee group are detailed. Food appropriate to detainees' state of health, within the relevant norms, on the basis of a medical recommendation by a prison doctor shall be provided. Additionally, inmates may request to be supplied with food appropriate to their religion.

5. Time spent outside the cell and outdoors

a. Time spent outdoors

Prison Act, Article 123 provides that in order to maintain and develop the physical and mental conditions of convicts', access shall be provided a certain period of time every day to stay in the open air in accordance with the provisions of the specific law enforcement regime, but minimum one hour per day.

b. Time spent indoors

Prison Act, Articles 100–103, in a penitentiary, convicts may move inside the law enforcement institution – according to their security classes – with authorisation or under supervision, under supervision or under supervision with monitoring inside the designated unit. In addition, they shall have their cell doors closed by night and periodically open by day, according to the regime rules.

In the correctional institution, the convict shall have a determined, organised and controlled regimen, may move within the law enforcement institution in accordance with their security classification only with authorisation and under supervision or under supervision, in the designated area of the law enforcement institution under control or under supervision, in the designated area of the law enforcement institution under control, and freely at certain organised programmes, and the door to the convict's cell or dwelling space shall be kept locked during the night. During the daytime, it may be authorised to be open periodically or full time, or freely, and the door to the convict's cell or dwelling space shall be kept locked during the night, kept open during the daytime. The convict accommodated in a special security cell or unit shall be under constant control and supervision, may move in the area of the law enforcement institution with authorisation and under supervision, the door to their cell shall be kept locked.

⁵⁵ See Hungary, Ministry of Interior Decree No. 13/2022 (IV. 29.) on the professional and nutritional requirements for the provision of food to detainees [[13/2022. \(IV. 29.\) BM rendelet a büntetés-végrehajtási intézetben fogvatartott elítéltek és egyéb jogcímen fogvatartottak ételmezési ellátásának ételmezési szakmai és táplálkozás-egészségügyi követelményeiről](#)]; Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Articles 110 (3) and 128 and Annex 6.

According to Article 384 of the Act, in the course of applying the general rules, the persons in pre-charge detention may move about in the detention facility subject to permission and supervision, and their cell shall be locked up, In the course of applying more lenient rules, the persons in pre-charge detention and may move about in the detention facility only subject to supervision, and their cells shall be locked up.⁵⁶

c. Recreational facilities

Prison Act, Article 123 says that, in order to maintain and develop the physical and mental conditions of convicts', access shall be provided to the self-development opportunities, freedom to order publications and to use any cultural or sports facilities of the law enforcement institute in accordance with the provisions of the specific law enforcement regime or classification.

d. Educational activities

Based on the Act CCXL of 2013 (Prison Act) in order to maintain and develop the intellectual activities and mental conditions of convicts', access shall be provided to the right to learn in accordance with the provisions of the Act, i.e. access to primary, secondary and tertiary education, provision of training leave and leave to attend examinations.

e. NPM assessment

A significant part of the reference period was characterised by restrictive measures due to the Covid–19 epidemic. During this period, participation in education was mainly ensured without the personal presence of teachers. According to Chapter II, point 46, during the first wave of the epidemic, education and training already started could only be continued by digital means, and later, according to Action Plan IV Chapter II, point 46, with digital education being favoured, contact lessons could only take place in protective equipment with a protective distance of 1.5 m, with continuous disinfection of classrooms and teaching areas).⁵⁷ In several institutions, detainees reported that the use of the gym was provided free of charge during this period. There was no need to limit the work opportunities for prisoners, despite the precautions taken to reduce the risk of infection. One example of this is the Márianosztra

⁵⁶ Hungary, [Prison Act](#).

⁵⁷ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1190/2021 in connection with the visit of the Borsod-Abaúj-Zemplén County Penitentiary Institute](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1190/2021. számú ügyben a Borsod-Abaúj-Zemplén Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben), p. 20; Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-750/2021 in connection with the visit to Sopronkőhida Prison and Detention Centre \(Previous case: AJB-2727/2020\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-750/2021. számú ügyben a Sopronkőhidai Fegyház és Börtön látogatásával összefüggésben (Előzmény ügy: AJB-2727/2020)], p. 15.

Prison, where the Institute ensured one hour of free air per day during the epidemic by creating four “compartments” in the yard, separated and delimited by wire fences, each of which could accommodate up to twenty-five prisoners. A sports courtyard was also being constructed at the time of the visit.⁵⁸

Detainees in quarantine were also guaranteed an hour of free air per day. They were usually the last to be escorted off at the end of the day, and the final disinfection was carried out after their walk.⁵⁹

In the epidemic period, the interviewed watched TV, played football, cards and board games during the day. Over the holidays they could participate in handicraft activities. A request form to the reintegration officers allowed prisoners to borrow books. Religious practice was also provided.

In general, the institutions tried to organise the prisoners’ lives in such a way that they could spend their free time in a meaningful way, given the limited possibilities due to the Covid infection risk. Therefore, the NPM did not find any irregularities due to the restrictions related to the risk of epidemics, but in one case it drew attention to⁶⁰ that the provision of educational, sports, vocational training, recreational and other meaningful out-of-school programmes for young people throughout the day is of paramount importance. The CPT stresses that all juveniles should be given the opportunity to take at least two hours of daily physical activity, of which one hour, and preferably much more, should be spent outdoors.⁶¹ In a previous report the NPM⁶² has also pointed out that the children’s right to the protection and care necessary for their proper physical, mental and moral development is compromised if they are not provided with an adequate period of out-of-custody leisure. He also pointed out that, despite the risk of infection, it is important to spend leisure time in a meaningful way, and that the institution should therefore continue to provide leisure activities during the epidemic.⁶³

⁵⁸ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-874/2021 in relation to the visit to the Mariánosztra Prison and Detention Centre](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-874/2021. számú ügyben a Máriaosztrai Fegyház és Börtön látogatásával összefüggésben*), p. 20.

⁵⁹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2022), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case No AJB-464/2022 in connection with the visit of the Hajdú-Bihar County Penitentiary Institute \(Previous case: AJB-4385/2021\)](#) [*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-464/2022. számú ügyben a Hajdú-Bihar Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (Előzmény ügy: AJB-4385/2021)*], p. 9.

⁶⁰ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in the context of his visits to the Bács-Kiskun County Penitentiary Institute in case AJB-1056/2023](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1056/2023. számú ügyben a Bács-Kiskun Vármegyei Büntetés-végrehajtási Intézetben tett látogatásaival összefüggésben*), pp. 27–28.

⁶¹ See CPT General Report No 24 [CPT/Inf(2015)1], paragraph 107.

⁶² Report No. AJB-1423/2015.

⁶³ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1024/2023 in connection with the visit of the National Penitentiary Institute of Central Transdanubia to the Baracska Facility](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1024/2023. számú ügyben a Közép-dunántúli Országos Büntetés-végrehajtási Intézet Baracska Objektumának látogatásával összefüggésben*), pp. 14–15; Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive](#)

In cases where the meaningful use of leisure time is impeded for other reasons, the NPM has already found wrongdoing on the part of the police organisation. The AJB-464/2022 report⁶⁴ found that the requirement of equal treatment under Article XV (2) of the Fundamental Law was jeopardised by the fact that female prisoners were less able to participate in leisure activities because they had to be separated from male prisoners working in the Institute during renovation works and the movement of female prisoners required more organisation. The NPM also made findings on the situation of women during its inspection of the Békés County Prison Institute.⁶⁵ However, the NPM pointed out that women deprived of their liberty should be offered meaningful activities (work, training, education, sports, etc.) under the same conditions as their male counterparts and, depending on the circumstances, if women are not given equal access to the activities offered by the regime, this may amount to degrading treatment.⁶⁶

With regard to the accessibility of recreational programmes, the NPM pointed out that the prohibition of degrading treatment (Article III of the Fundamental Law) is jeopardised if prisoners are informed about recreational programmes only late and are, therefore, unable to participate in them.⁶⁷

In the context of the EFOP programme in penitentiary institutions, the NPM noted that in the Hajdú-Bihar County Penitentiary Institute, due to the small size of the office, many participants unfortunately work in their cells, although they could usefully spend their time outside them. This has jeopardised the prohibition of degrading treatment as set out in Article III of the Fundamental Law.⁶⁸

According to the legal provisions,⁶⁹ **detainees are entitled to spending at least one hour outdoors every day** in each detention category. There are five detention categories from low to high security, where I

[Mechanism in Case AJB-1153/2023 in connection with the visit of the Zala County Prison](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1153/2023. számú ügyben a Zala Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben), p. 12.

⁶⁴ Hungary, Commissioner for Fundamental Rights in Hungary (Alapvető Jogok Biztosa) (2022), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case No AJB-464/2022 in connection with the visit of the Hajdú-Bihar County Penitentiary Institute \(Previous case: AJB-4385/2021\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-464/2022. számú ügyben a Hajdú-Bihar Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (Előzmény ügy: AJB-4385/2021)], p. 15.

⁶⁵ Hungary, Commissioner for Fundamental Rights in Hungary (Alapvető Jogok Biztosa) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1298/2023 in connection with the visit of the Prison Institute of Békés County](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1298/2023. számú ügyben a Békés Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben), p. 24.

⁶⁶ CPT Specifications – Extract from the 10th General Report [CPT/Inf (2000) 13], paragraph 25.

⁶⁷ Hungary, Commissioner for Fundamental Rights in Hungary (Alapvető Jogok Biztosa) (2023), [REPORT by the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1151/2023 in connection with the visit to the National Penitentiary Institute in Kiskunhalas \(Follow-up\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1151/2023. számú ügyben a Kiskunhalasi Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben (utóvizsgálat)], p. 13.

⁶⁸ Hungary, Commissioner for Fundamental Rights in Hungary (Alapvető Jogok Biztosa) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1682/2023 in the context of the visit of the Hajdú-Bihar County Prison \(Follow-up\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1682/2023. számú ügyben a Hajdú-Bihar Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (utóvizsgálat)], p. 13.

⁶⁹ Hungary, [Prison Act](#), Article 122 (ea).

is the minimum and V is the maximum. Each category is associated with different entitlements. III-V category detainees are entitled to the one hour provided as minimum by the law, whereas inmates placed in categories I-II may be entitled to spend one additional hour outdoors, but this is regulated by the “House rules” of the penitentiary institution.⁷⁰ In the HHC’s experience, however, most Hungarian prisons struggle to provide even the mandatory one-hour outdoors time to detainees, mostly because of staff shortages therefore, detainees are often discouraged by prison personnel from using their open-air time. Logistical issues are also reported to the HHC: sometimes open air time is scheduled for a time slot that is covered by other activities (work, showering, Skype call to family members). A further problem reported by inmates to the HHC in this regard is that prison yard facilities are poor and rules are strict during open-air time. For example, it is often not possible to sit down during time spent outdoors, there are no sports facilities or equipment, leaving the detainees with nothing to do except for walking around in circles, and there is often a lack of facilities to protect the inmates from the rain or sunlight. Additionally, prison yards are typically small, paved and allow only very limited effective movement of prisoners. For pictures of prison yards, see the reports of the NPM.⁷¹

As regards to the **time spent indoors**, freedom of movement within the institution, i.e. when the cell door must be kept closed, is also defined by law in relation to the detention categories:⁷²

- The cell doors of category V prisoners shall be kept locked day and night
- The cell doors of category IV detainees shall be kept locked at night, while during the day, the temporary opening of the cells may be authorised in accordance with the legal provisions applicable to that category
- The cell doors of category III detainees must be kept locked at night, except, if running water necessary for sanitation and toilets are provided outside the cells, on a departmental basis; during the day, periodic opening may be permitted in accordance with the statutory provisions applicable to the category
- The doors of living quarters of category I-II detainees must be kept open during the day; however locked at night, except, if running water for sanitation and toilets are provided per department.

In spite of the above detailed regulations, in the HHC’s experience cell doors often tend to be closed even at times when, in theory, they should be kept open – this may also be due to the staff shortage in prisons.

⁷⁰ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 34.

⁷¹ The last pages of the NPM monitoring reports usually contain photographs taken in the penitentiary concerned, see the [NPM reports](#) from 2023.

⁷² Hungary, [Prison Act](#), Article 102.

The most prevalent **recreational facilities** in Hungarian prisons are gyms. The rules of using the gym⁷³ is determined by the detention category to which the detainee is assigned. Detainees in the lowest detention category (I) can use the gym for free four times a week. Inmates assigned to the category II can use the gym for free two times a week and an additional two times if they pay for it. Detainees in the third category can only use the gym three times a week but only if they pay for it, while category IV inmates can only use it once a week and they also have to pay. Inmates assigned to the fifth category are not allowed to use the gym at all. In the HHC's experience, staff shortages create difficulties around all logistics-related operations in prisons. Thus, prisoners often cannot access facilities such as the gym because there is an insufficient amount of personnel to accompany them from their living quarters to the facility.

6. Solitary confinement

a. Placement in solitary confinement

Prison Act regulates in detail the solitary confinement in Hungarian prisons. According to Article 76, the convict's application for a court review of the law enforcement institution's decision which imposes solitary confinement shall be assessed by the judge overseeing law enforcement within five days of receipt. Criminal costs shall be borne by the State.

Article 127 places no restriction on voluntary attendance of religious services should apply except for prisoners banned or held in solitary confinement hereof. However, the opportunity to have unsupervised meetings with any of the persons should not be refused even if the prisoner has been banned from attendance or held in solitary confinement or a special security cell or block. Article 153 states that electronic monitoring device may be installed into the special security cell and unit, into the safety seclusion room, into the disciplinary seclusion room and into the solitary confinement cell. Furthermore, an electronic monitoring device ("tag") may only be installed into cell if it is necessary to follow-up the activities of the detainee who attempted suicide earlier, in order to prevent further similar incidents.

According to Article 176, the solitary confinement may range up to **30 days in penitentiary** (the strictest regime), **20 days in prison** (medium regime) and **10 days in remand** prison (mild regime), and it may be allowed to the convict to work and go to school during this period. Solitary confinement shall not apply against pregnant women and women with small children. During the execution of solitary confinement, the convict

⁷³ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 34.

- a) may not go on evening-out and leave;
- b) may not send and receive packages;
- c) may not receive visitors, except for the pastor as well as future employers, the probation supervisor and the representative of the charity, in order to prepare for the release;
- d) may not shop for personal needs;
- e) may not use the opportunities for cultural and sports activities of the law enforcement institution and may not read press products.

The convict may have contact with the counsel for the defence, and upon consent of the commander of the law enforcement institution, may visit his/her seriously ill relative and attend his/her relative's funeral. The visit, consignment or shopping for the convict's personal needs that was postponed due to the solitary confinement, may be authorised after the execution of solitary confinement. If the doctor does not recommend the continuation of solitary confinement due to the health status of the convict, then the solitary confinement shall be interrupted. Solitary confinement can last up to **20 days in a juvenile prison and up to 10 days in a juvenile remand prison**. The juvenile punished with solitary confinement shall not be banned from school classes and reintegration programmes. Solitary confinement that may be imposed on the person in **pre-charge detention is for up to 20 days**.⁷⁴

b. Monitoring of detainees

Prison Act, Article 153 confirms that the law enforcement institution may install electronic monitoring devices ("tags") into the common areas, sections, courtyard of the law enforcement institution reserved for detainees, as well as to the outer boundary walls and gate of the law enforcement institution. Electronic monitoring devices may be installed into the special security cell and unit, into the safety seclusion room, into the disciplinary seclusion room and into the solitary confinement cell. Furthermore, electronic monitoring devices ("tags") may only be installed into cell if it is necessary to follow-up the activities of the detainee who attempted suicide earlier, in order to prevent further similar incidents. The audio and video tracks recorded by the electronic monitoring device shall be preserved for 60 days and shall be deleted after this period – except for the suspicion of a criminal offence or a disciplinary offence. If a criminal offence is suspected, they shall be preserved until the final adjudication of the proceeding and in case of disciplinary offence until the conclusion of the disciplinary proceeding, respectively. In addition, if needed, the prison doctor can consult the inmate for any requested health reason.⁷⁵

⁷⁴ Hungary, [Prison Act](#).

⁷⁵ Hungary, [Prison Act](#).

c. NPM assessment

In the area of disciplinary segregation, the NPM's reports for the reference period mainly focused on the state of the cells.⁷⁶ Some of the disciplinary cells in the institutions are equipped with cameras to prevent suicidal tendencies.

According to the staff interviewed, the disciplinary situation of prisoners has not deteriorated during the epidemic,⁷⁷ and in some cases, it has improved markedly,⁷⁸ the rules on the risk of epidemics were basically respected by the detainees. The NPM also found no fundamental rights violations in the context of the disciplinary situation at the Bács-Kiskun County Prison, but pointed out that the guards' duty is to protect the detainees from each other while guarding them. Prison staff must be able to carry out their policing and supervisory duties adequately, including at the level of staffing, in order to put an end to inter-prisoner violence. Prison staff shall be alert to signs of disorder and shall be determined and adequately trained to intervene when necessary.⁷⁹

International standards and recommendations caution against the severe and disproportionate risk of serious and irreversible psychological harm that arises from the fifteenth day of solitary confinement. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Committee (CPT) advises that the maximum duration of solitary confinement as a disciplinary measure should not exceed 14 days, even in cases of prolongation or sequential imposition and uninterrupted execution. Similarly, the United Nations Standard Minimum Rules for the Treatment of Prisoners (also known as Nelson Mandela rules) stipulate that prolonged solitary confinement, if it exceeds 15 days, must be prohibited. The UN Special Rapporteur echoes this, asserting that prolonged solitary confinement, in excess of 15 days, should be subject to an absolute prohibition.⁸⁰

⁷⁶ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-874/2021 in relation to the visit to the Mariánosztra Prison and Detention Centre](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-874/2021. számú ügyben a Márianosztrai Fegyház és Börtön látogatásával összefüggésben*), p. 8; and Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), Report No. AJB-2252/2023, p. 8. (Not available online.)

⁷⁷ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2022), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case No AJB-464/2022 in connection with the visit of the Hajdú-Bihar County Penitentiary Institute \(Previous case: AJB-4385/2021\)](#) [*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-464/2022. számú ügyben a Hajdú-Bihar Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (Előzmény ügy: AJB-4385/2021)*], p. 8.

⁷⁸ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in the context of his visits to the Bács-Kiskun County Penitentiary Institute in case AJB-1056/2023](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1056/2023. számú ügyben a Bács-Kiskun Vármegyei Büntetés-végrehajtási Intézetben tett látogatásaival összefüggésben*), p. 36.

⁷⁹ CPT General Report No. 11 [CPT/Inf (2001) 16], paragraph 27.

⁸⁰ UN Special Rapporteur on Torture, [A/66/268](#), August 2011, paragraph 88.

A stark contrast exists between the current Hungarian practice of **solitary confinement** and the internationally recognised standards. For instance, the maximum duration of solitary confinement as a disciplinary measure is 25 days for inmates in high-security detention categories (category IV and V), and 20 days for those in the middle category (category III).⁸¹ Thus, the Hungarian regulation and practice contradicts numerous international minimum standards, including those set by the CPT on solitary confinement.

In Hungary, several solitary confinements may be carried out continuously, but after the maximum period of time that may be imposed on the detainee under the Prison Act has been reached, the enforcement must be suspended for five days.⁸²

Last but not least, it must be highlighted that the Prison Act contains two other legal provisions that can as well result in the separation of a detainee from other inmates: **safety separation** and **disciplinary isolation**.

- To maintain order and security, Article 145 of the Prison Act allows detainees to be placed in **security separation** for a maximum of ten days, which can be prolonged with an extra ten days. During safety separation, the detainee is under constant supervision and allowed to receive visitors only in a high security booth or through a security device. Disciplinary proceedings are not required for the imposition of security separation.⁸³
- If a disciplinary proceeding is pending against the detainee, they may be placed in **disciplinary isolation** if such a measure is justified to ensure a successful investigation. Disciplinary isolation may last up to the duration of the disciplinary proceedings of the first instance but a maximum of twenty days, during which time the detainee may not have contact with the other alleged perpetrators, witnesses, and victims. It is not a necessity, but a detainee in disciplinary isolation may be placed alone and, therefore, cannot meet other prisoners who are not connected to the disciplinary offence in any way.⁸⁴ If the disciplinary proceedings result in a period of solitary confinement, the period of disciplinary segregation does not count towards the period of solitary confinement.⁸⁵ **This means that, in extreme cases, a detainee may be separated from other inmates for up to 45 days in total.**

⁸¹ Hungary, [Prison Act](#), Article 169 (1).

⁸² Hungary, Ministerial Decree No. 14/2014 (XII. 17.) on the disciplinary liability of detainees [[14/2014. \(XII. 17.\) IM rendelet a büntetés-végrehajtási intézetben fogvatartott elítéltek és egyéb jogcímen fogvatartottak fegyelmi felelősségéről](#)], Article 30 (2)

⁸³ Hungary, [Prison Act](#), Article 146.

⁸⁴ Hungary, Ministerial Decree No. 14/2014 (XII. 17.) on the disciplinary liability of detainees [[14/2014. \(XII. 17.\) IM rendelet a büntetés-végrehajtási intézetben fogvatartott elítéltek és egyéb jogcímen fogvatartottak fegyelmi felelősségéről](#)], Article 13.

⁸⁵ Hungary, Ministerial Decree No. 14/2014 (XII. 17.) on the disciplinary liability of detainees [[14/2014. \(XII. 17.\) IM rendelet a büntetés-végrehajtási intézetben fogvatartott elítéltek és egyéb jogcímen fogvatartottak fegyelmi felelősségéről](#)], Article 30 (3).

The law prescribes that before the enforcement of solitary confinement, the detainee must be examined by the penitentiary doctor. Juveniles or those presenting suicidal tendencies must be examined by a psychologist as well.⁸⁶ Such medical examination must be repeated every week. The health of the detainee must also be monitored in between these medical examinations, including by electronic monitoring (CCTV).⁸⁷

If the medical examinations suggest that the detainee's state of health prevents the enforcement or continuation of solitary confinement and the penitentiary doctor recommends doing so, the disciplinary authority shall postpone or interrupt the enforcement. Solitary confinement (or the remaining part of it) is carried out later when the detainee's state of health allows it.⁸⁸

The HHC has no practical experience of whether the medical examinations described above are sufficient in practice to effectively protect the health of prisoners in solitary confinement.

7. Work and education of detainees to promote social reintegration

a. General measures to promote social reintegration

Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine, pursuant to Article 116 of the Act, the reintegration of the convicted person shall be supported by the correctional institution, with a focus on achieving reintegration goals, particularly through education, vocational training and further education. To enhance the effectiveness of reintegration, the correctional institution shall provide opportunities for participation in cultural, recreational, sports, as well as personalized personality development, therapeutic and rehabilitative programs, and programs aimed at recognizing the consequences of criminal acts, assuming responsibility for them, and seeking restitution for the damages caused. If the convicted person voluntarily contributes to the costs of education and vocational training in accordance with Article 184 (4) of the Act, the amount of the contribution shall be stipulated in a training agreement.⁸⁹

⁸⁶ Hungary, [Prison Act](#), Article 169 (6).

⁸⁷ Hungary, Ministerial Decree No. 14/2014 (XII. 17.) on the disciplinary liability of detainees [[14/2014. \(XII. 17.\) IM rendelet a büntetés-végrehajtási intézetben fogvatartott elítéltek és egyéb jogcímen fogvatartottak fegyelmi felelősségéről](#)], Article 31 (1).

⁸⁸ Hungary, Ministerial Decree No. 14/2014 (XII. 17.) on the disciplinary liability of detainees [[14/2014. \(XII. 17.\) IM rendelet a büntetés-végrehajtási intézetben fogvatartott elítéltek és egyéb jogcímen fogvatartottak fegyelmi felelősségéről](#)], Article 31 (3).

⁸⁹ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 69.

b. Access to work

According to Act No. CCXL of 2013 on the execution of penalties, measures, certain coercive measures and administrative detention, Articles 219–223, the employment of the convicted person must be ensured during the execution of imprisonment according to the capabilities of the penal enforcement authority. The employment of the convicted person may be temporarily suspended until the obstacle to employment is removed. The decision on the employment or modification thereof of the convicted person, specifying the position, workplace and employer, shall be made by the admission and employment committee. Until the suitability for employment is determined, the convicted person cannot be employed. When designating work, the professional qualifications of the convicted person should be taken into account as far as possible. The convicted person cannot perform work in a position for which they have been legally disqualified. Depending on the nature of the work, the convicts can be assigned to organisational units, with no superior-subordinate relationship established among them. Convicts may be required to wear identification indicating the workplace or position to maintain security, work discipline and order. If the employment of the convicted person is supervised or controlled, it can also be achieved through the use of electronic remote monitoring devices. Within the framework defined by law, the employer records in the prisoner register the data necessary for enforcing the rights and obligations related to employment. The law also regulates that the employer is obliged to ensure the conditions for work that do not endanger health and safety as prescribed by law, to provide the necessary information and guidance for work, to conduct the prescribed training sessions, to establish a work schedule appropriate to the nature of the work and the composition of convicted persons and other persons detained for other legal reasons participating in the work, to continuously organise the work, to remunerate for the work performed, to classify the work processes or job positions into categories of hazard from a health and safety perspective, to comply with legal requirements related to employment, to send the convicted person for occupational fitness medical examination before or after commencement of work as prescribed by law, and to prepare individual or group job descriptions for the tasks performed by convicts.

The employer is also obliged to prepare an employment regulation. The convict is entitled to established remuneration, accident benefits in case of workplace or operational accidents and accident healthcare services, as well as paid leave after regularly performed work. During employment, the convict is obliged to:

- a) perform work, except for the exceptions defined by law
- b) carry out the designated work in accordance with their professional knowledge and skills, disciplined
- c) comply with the regulations regarding occupational safety and environmental protection

- d) perform the work:
 - da) at the designated time and place
 - db) according to the instructions of the employer
 - dc) with the expected expertise and diligence
 - dd) in accordance with the rules, regulations, and technological instructions related to their work.

The convict is obliged to reimburse the costs of work fitness examinations if they become necessary due to reasons attributable to them. The convict is not burdened with the obligation to work if:

- a) compulsory education is in place
- b) pregnancy has reached the sixth month, until the fiftieth day following childbirth, termination of pregnancy, or cessation of pregnancy for other reasons
- c) placed together with their child
- d) incapacitated for work
- e) has reached the applicable retirement age limit or acquired the necessary years of service
- f) as long as they fulfil their civic obligations
- g) in the event of a serious illness or death of a close relative, for a maximum of two working days, if the person exercising the right of disposition has granted permission for the visit or participation in the funeral
- h) in case of incapacity due to illness
- i) for the entire duration of mandatory medical examination, as well as for the time spent away due to blood donation, but not exceeding one working day
- j) if unable to appear at the workplace due to an unavoidable reason, or
- k) with the permission of the employer.

For the purposes of exemption from the obligation to work, it shall be considered an unavoidable reason when the penal institution takes actions related to the enforcement of the rights of the convicted person or the fulfilment of their obligations, as well as for the maintenance of the order and security of detention. If the convicted person is not subject to the obligation to work but participates in employment upon request, the rules of mandatory work shall apply to their employment and contribution to maintenance costs, with the obligation to inform the convicted person in advance about this.⁹⁰

⁹⁰ Hungary, [Prison Act](#), Chapter VI.

c. Access to education

According to Act No. CCXL of 2013 on the execution of penalties, measures, certain coercive measures and misdemeanour detention, Article 117, the organisation of compulsory education, including special education and vocational training must comply with the relevant legislation. In correctional institutions, the operation of religious educational institutions and private educational institutions must also be allowed. Encouragement and support must be provided for obtaining elementary school qualifications. Educational institutions shall issue certificates without reference to the fact of detention. The correctional institution or the contracting party with the educational institution shall provide the tools, textbooks and other costs of education for the education and training of convicts or the convicted person. Costs may be provided for convicts participating in other forms of education. If a convict participating in elementary education shows a significant lag in knowledge compared to what is indicated in their certificate, measures for catching up must be provided for the convict. Convicts classified in Category I and II may, exceptionally with the permission of the commander of the correctional institution, continue their studies outside the correctional institution and take the necessary exams. Convicts placed in the long-term special ward and in the section for convicts posing a special danger to detention security may participate in education as individual learners.⁹¹

d. NPM assessment

The Mandela Rules⁹² 4.2, educational, vocational training and employment opportunities, as well as other appropriate and accessible support programmes, including reparative, moral, spiritual and health or sports programmes, shall be provided in accordance with the individual treatment needs of the detainee, in order to promote reintegration. Point 25 of the European Prison Rules states that a balanced programme of detention should be provided and that all detainees should be allowed to spend the time necessary to maintain a sufficient level of human and social contact outside their cells. According to the Prison Act, the objectives of the enforcement of imprisonment include “promoting, as a result of reintegration activities during the enforcement of the sentence, the successful reintegration of the prisoner into society and his or her becoming a law-abiding member of society after release”.⁹³ The law defines reintegration activities as the employment, occupational therapy, participation in primary and secondary education, higher education, vocational training and apprenticeship of

⁹¹ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)].

⁹² United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) General Assembly resolution 70/175, annex, adopted on 17 December 2015.

⁹³ Hungary, [Prison Act](#), Article 83 (1).

prisoners,⁹⁴ as well as spending leisure time in culture, sport and religion.⁹⁵ Under the emergency rules for the control of the coronavirus, the work of prisoners could be suspended at the decision of the National Commander of the Prison Service.⁹⁶ The possibility for detainees to participate in other reintegration activities – participation in education, vocational training, adult education, access to cultural, self-training and sporting opportunities, work outside the prison – could be restricted by the prison commander on the basis of the legislation.⁹⁷

For more information, see point 5.

The HHC regularly receives complaints from detainees claiming that the **general measures to promote social reintegration** and educational activities operate at low intensity in Hungarian penitentiaries. Reintegration programmes are curtailed by the long-standing and often severe **staff shortages** the penitentiary system faces. Staff shortages affected 19 out of 33 penitentiaries at the end of 2023. On 1 November 2023, 9,441 staff members were employed by the penitentiary system all across its operation, including administration, in-house training personnel and management.⁹⁸ This constitutes a staff shortage of 12% when compared to the number of positions necessary to operate the penitentiary system (10,695). NPA data reveals above-average staff shortages in eight individual penitentiaries, between 12-25%. Moreover, data show that severe staff shortages are more likely to occur in larger prisons, and occupancy levels correlate with these data. On 1 November 2023, the most severely understaffed penitentiaries were the following:

Table 2 – The 8 most understaffed penitentiaries as of 1 November 2023⁹⁹

	No. of detainees	Staffing level	Occupancy rate
Budapest Strict and Medium Regime Prison	1,064	78%	104%
Budapest Remand Prison	1,387	80%	107%
Győr-Moson-Sopron County Remand Prison	135	82%	82%
Márianosztra Strict and Medium Regime Prison	528	83%	105%

⁹⁴ Hungary, [Prison Act](#), Article 83 (3).

⁹⁵ Hungary, [Prison Act](#), Article 164 (8).

⁹⁶ Pursuant to Article 4 (1) of Government Decree No. 90/2020 (IV. 5.), after the entry into force of the law on 6 April 2020, the employment of the convicted person could be temporarily suspended until the reason preventing him/her from working or on the basis of a decision of the national commander of the penitentiary system. Pursuant to the amendment to Government Decree No. 90/2020 (IV. 5.), which entered into force on 1 June 2020, the National Commander of the Penitentiary System may suspend the employment of convicted persons in one or more penitentiary institutions pursuant to Article 3 (7) (ca) of the Act LVIII of 2020, and subsequently repealed pursuant to Article 237 (4) (ca) of the Act LVIII of 2020.

⁹⁷ Pursuant to Article 3 (8) of Government Decree No. 90/2020 (IV. 5.) and Article 237 (5) of Act LVIII of 2020, the commander of the prison could restrict the rights of prisoners set out in Article 122 of the Criminal Code; their work outside the prison, and their participation in education, vocational training and adult education.

⁹⁸ Source: Response no. 30500/5563-7/2023 issued by the NPA to the HHC's FOI request on 4 December 2023.

⁹⁹ Source: Response no. 30500/5563-7/2023 issued by the NPA to the HHC's FOI request on 4 December 2023.

Szeged Strict and Medium Regime Prison	1,452	88%	108%
Szombathely National Prison	1,439	75%	97%
Tiszalök National Prison	1,163	87%	105%
Tököl National Prison	1,336	84%	105%

The NPM's prison monitoring reports often highlight serious staff shortages. The NPM corroborates that staff shortages have a detrimental effect on staff-detainee relationships. The NPM has repeatedly stated that staff shortages and the resulting overtime creating substandard working conditions for staff members often jeopardises the prohibition of torture and inhuman or degrading treatment. Health and supervisory departments are reported to be the most difficult areas to staff.¹⁰⁰ For example, in the Tiszalök National Prison, in 2020, 10 of the 25 posts in the Health Department were vacant, i.e. 40% of the posts (including the head of the department and 3 specialist doctors).¹⁰¹ In connection to its 2021 visit to the Állampuszta National Prison, the NPM reported that staff members working as drivers or in the finance department also performed supervisory duties and worked in the detainee wards.¹⁰² In 2021, the staff of the Tolna County Penitentiary reported that due to a staff shortage in the security department, the health department staff had to perform security tasks (e.g. clothes search) occasionally. According to NPM, the trust between medical staff and prisoners is negatively affected when medical staff perform security tasks.¹⁰³ According to a recent report on a visit in 2023, recent reorganisations of the prison system have negatively impacted the morale of the staff of the Hajdú-Bihar County Remand Prison. For example, several staff members have been demoted to lower positions, reducing their salaries. According to the staff, restructuring with such adverse effects has never happened before in the history of the prison service.¹⁰⁴

¹⁰⁰ See the following reports of the NPM. It is important to note that written reports of visits typically are not published until years later. Thus, the majority of the most recent reports published in 2023 are for visits in 2020 and after. Written reports on visits in 2023 (with a few exceptions) have yet to be published. Reports [AJB-1152/2023](#); [AJB-1056/2023](#); [AJB-1028/2023](#); [AJB-1024/2023](#); [AJB-1224/2023](#); [AJB-1030/2023](#); [AJB-1151/2023](#); [AJB-1682/2023](#).

¹⁰¹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1030/2023 in connection with the visit of the National Penitentiary Institute in Tiszalök \(related case: AJB-1026/2023\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1030/2023. számú ügyben a Tiszalöki Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben (kapcsolódó ügy: AJB-1026/2023)].

¹⁰² Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1224/2023 in connection with the visit of the National Penitentiary Institute of Állampuszta \(Alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1224/2023. számú ügyben az Állampusztai Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben\)](#).

¹⁰³ NPM Report [AJB-1152/2023](#).

¹⁰⁴ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1682/2023 in the context of the visit of the Hajdú-Bihar County Prison \(Follow-up\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1682/2023. számú ügyben a Hajdú-Bihar Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (utóvizsgálat)].

8. Healthcare (note – section 11 contains specific questions concerning female detainees)

a. Access to healthcare

Prison Act, Article 156 says the convicted person is entitled to medication and medical aids as determined by separate legislation. In the case of a convicted person who does not have deposit money, income other financial benefits, and is entitled to public healthcare in accordance with the legal provisions on public healthcare, the detention facility shall assume the cost of medication and medical aids up to the extent specified in the legal provisions on public healthcare. The detention facility shall provide the medication and medical aids necessary to preserve or restore the working capacity of the working convict if a work-related accident during detention or work-related illness necessitates treatment. Pregnant convicts and children placed in the mother-child unit shall receive medication and medical aids free of charge. The convict may use medication and medical aids provided by the detention facility. The convicted person, upon the recommendation of the medical doctor of the penitentiary institution and with the permission of the director of the penitentiary institution, may use medication, medical aids and medicinal products financed by themselves, their relatives or a third party registered as a contact person, and – in the absence of contrary provisions in this law – procured at the request of the penitentiary authority or made available to them in any other way. The convicted person may avail themselves of healthcare services subject to fees or partial fees as defined by law against the imposed fee. The penitentiary institution may assume the costs – in particularly deserving cases – of such fees.

During the execution of imprisonment, the convicted person's healthcare shall be ensured in accordance with the current healthcare, social security, health insurance regulations and the mandatory professional procedure. Healthcare for the convicted person shall be governed by healthcare and social security regulations. The right to refuse healthcare for the convicted person, which endangers or directly threatens their own and community health, may be restricted in case of urgent necessity or for public health and epidemic control purposes. The convicted person may withdraw consent to the intervention at any time. However, in case of withdrawing consent without substantial reason, the convicted person may be obligated to reimburse the resulting and justified costs. The penitentiary and corrective measures shall primarily ensure therapeutic and preventive care corresponding to the health condition of the convicted person, provided mainly by the detention institution, the Correctional Facility for Chronic Aftercare in Szeged, and the Institute for Justice and Mental Health (hereinafter: IMEI), which the convicted person is obliged to utilize. If adequate healthcare for the convicted person is not possible within the framework of the penal institution, the prison doctor or the prison healthcare service shall ensure that the convicted person receives appropriate and mandatory care in a healthcare institution.

The convicted person may only avail themselves of healthcare services at their own expense if authorised by the commander of the penitentiary institution, if the convict advances the expected costs – including transportation expenses – and if the healthcare institution agrees to provide the service. Urgent medical care for convicts within the penitentiary institution shall be provided by the institution’s physician during regular working hours, and outside of working hours and on public holidays, by the physician on call, or in their absence, by the territorial primary care emergency service, emergency medical service or ambulance service according to the location of the penitentiary institution. The convict must be transported to the nearest, appropriate and mandatory healthcare institution based on the written recommendation or referral of the physician if they require outpatient or inpatient specialised care and the penitentiary healthcare service is not readily available. The transportation and provision of urgent medical care for a convict in need must not be denied or postponed.¹⁰⁵

b. Availability of medical staff

Every penitentiary institution shall have a prison doctor who, within the framework of employment or contractual relationship with the penitentiary institution, is a doctor providing curative-preventive basic healthcare to inmates in compliance with the conditions of law and order and military basic healthcare. Furthermore, according to the law, lung screening examinations must be carried out on inmates, and they must be provided with the opportunity to participate in dental screening and, for women, in gynaecological screening.¹⁰⁶ In cases requiring emergency medical care, the inmate in need of specialised care must be transported to the nearest healthcare institution within the territorial jurisdiction – providing appropriate and mandatory care – based on the written recommendation or referral of the prison doctor, the doctor on duty serving the area where the penitentiary institution is located, the primary care service serving the area where the penitentiary institution is located, the emergency medical service, or the ambulance service.¹⁰⁷ The provision of emergency dental care for detainees must be ensured by the penitentiary institution. Dental interventions falling outside the scope of emergency care may be performed at the penitentiary institution in accordance with health insurance regulations. Detainees shall pay a fee for reimbursable dental care, medical devices and their repair. The detainee shall receive dental prostheses and denture repairs free of charge by the prison dentist, and may also receive them for a fee if the expected remaining term of imprisonment allows and if

¹⁰⁵ Hungary, [Prison Act](#), Chapter 5, Articles 156–163.

¹⁰⁶ Hungary, Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons [[8/2014. \(XII. 12.\) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb jogcímen fogvatartottak egészségügyi ellátásáról](#)].

¹⁰⁷ Hungary, Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons [[8/2014. \(XII. 12.\) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb jogcímen fogvatartottak egészségügyi ellátásáról](#)].

sufficient funds are available for coverage. The costs of dental care, medical devices and their repair shall be covered by the penitentiary institution if necessitated by a work-related accident of the detainee or an occupational disease occurring during detention. The need for medical devices shall be determined by the authorised specialist physician, and their procurement shall be ensured by the penitentiary institution. The provision of emergency dental care for detainees must be ensured by the penitentiary institution. Dental interventions falling outside the scope of emergency care may be performed at the penitentiary institution in accordance with health insurance regulations. Detainees shall pay a fee for reimbursable dental care, medical devices and their repair.

c. Medical examination upon admission

Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine, according to Article 20, stipulates that the convicted person must undergo a health examination before placement in the community. If there is no need for the convicted person to be isolated in the infectious ward of a hospital or in a designated healthcare institution due to suspicion of an infectious disease, the admission procedure must be continued in accordance with the procedure issued by the National Public Health Centre. Otherwise, the correctional facility must arrange for the prisoner to be transported to the nearest healthcare institution conducting epidemiological surveillance. If there are signs of physical injury on the convict upon admission, or if the convict transferred from a police cell or a correctional facility claims to have been abused, an immediate medical examination must be conducted in accordance with Article 3 (7) of Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons, and a report must be prepared. A copy of the report must be sent to the transporting authority and the prosecuting authority responsible for legality supervision, along with an attached copy of the medical report.¹⁰⁸

d. Preventive care

Before placing the convict in the community during Covid-19, a health examination must be conducted. If there is no need for the convict's epidemiological isolation in the infectious department of a hospital or in a designated healthcare institution due to suspicion of an infectious disease, the admission procedure must continue in accordance with the procedure issued by the National Public Health Centre;

¹⁰⁸ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 15.

otherwise, the correctional facility must arrange for the inmate to be transported to the nearest healthcare institution conducting epidemiological observation.¹⁰⁹

e. Specialised care

With regard to inmates with a mental illness: Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine in Article 56 presents that the general physician of the IMEI (Institute for Justice and Mental Health) Director-General submits a proposal to the prison judge to change the place of execution of the imprisonment, if the IMEI psychiatrist has identified symptoms indicating a pathological mental state of the prisoner. The prison judge orders that a forensic psychiatric opinion be obtained. Two experts must be involved in the process; if the prisoner is transferred to the IMEI (Institute for Justice and Mental Health) as an emergency measure, the IMEI doctor may be one of the experts involved in the psychiatric evaluation. If the report concludes that the prisoner is mentally ill, the prison judge shall designate the IMEI as the place of execution of the custodial sentence. If the opinion is that the prisoner should be placed under guardianship or a temporary guardian should be appointed, the prison judge shall propose to the public prosecutor that guardianship be initiated or may initiate the appointment of a temporary guardian. An assessment of the prisoner's mental state shall be carried out every six months. The prison judge shall order a further psychiatric examination of the prisoner when considering the review or the request of the Director-General of the IMEI to return the prisoner to his original place of detention. If the new report concludes that the change in the prisoner's mental condition no longer justifies his placement in the IMEI, the prison judge shall order the prisoner's return to the prison. If, according to the expert's opinion, the prisoner should be placed under guardianship or the temporary guardianship order should be terminated, the prison judge shall propose to the public prosecutor to initiate the termination of the guardianship or the temporary guardianship order. If the prisoner has not been returned within two months prior to the expiry of the sentence and two months prior to the due date for release on parole, the prison judge shall order a forensic psychiatric examination of the prisoner, unless the previous opinion has been given within two months. If, on the basis of the expert's report, further medical treatment of the prisoner is justified, the prison judge requests the general practitioner of the IMEI Director-General to initiate psychiatric treatment of the prisoner on release, in accordance with the Healthcare Act. The prison judge may also take decisions on the basis of the file. The legal

¹⁰⁹ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)].

representative, spouse or partner of an adult prisoner may also appeal against the prison judge's decision.

With regard to prisoners with drug addiction, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine, Article 71, they shall be placed in a drug prevention unit. A prisoner who applies to be placed in such a unit may also be placed there. The opinion required for placement in a drug prevention unit shall be based on the available documents. A prisoner placed in a drug prevention unit shall be required to submit a drug-free test sample at an unspecified time each month under the supervision of a prison medical officer.¹¹⁰

Regarding chronically ill, sick and elderly detainees, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine stipulates that the prison shall declare within fifteen days of admission or of reaching the age of 60 years whether the convicted person who has reached the age of 60 years, agrees to comply with the operational rules in the event of placement in the geriatric unit. Within 15 days of the declaration in the affirmative, the Committee for the admission and employment of prisoners (hereinafter: CAEP) shall decide on the offender's placement in the geriatric unit.¹¹¹ In order to determine the individualisation of the provisions of Article 109/C (2) of the Prison Act,¹¹² the prison shall arrange for the prisoner to undergo a medical examination, if necessary with the involvement of a psychologist, within 30 days of placement in the unit, unless this has already taken place within 30 days prior to placement in the unit. At the prisoner's written request, the SIO shall terminate the prisoner's placement in the unit.¹¹³

f. Treatment of the detainee's choosing

The convicted person is entitled to medication and medical aids as determined by separate legislation. In the case of a convicted person who does not have deposit money, income other financial benefits, and is entitled to public healthcare in accordance with the legal provisions on public healthcare, the detention facility shall assume the cost of medication and medical aids up to the extent specified in the legal provisions on public healthcare. The detention facility shall provide the medication and medical

¹¹⁰ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 40.

¹¹¹ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)].

¹¹² Hungary, [Prison Act](#).

¹¹³ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 41/B.

aids necessary to preserve or restore the working capacity of the working convict if a work-related accident during detention or work-related illness necessitates treatment. Pregnant convicts and children placed in the mother-child unit shall receive medication and medical aids free of charge. The convict may use medication and medical aids provided by the detention facility. The convicted person, upon the recommendation of the medical doctor of the penitentiary institution and with the permission of the director of the penitentiary institution, may use medication, medical aids and medicinal products financed by themselves, their relatives or a third party registered as a contact person, and – in the absence of contrary provisions in this Act – procured at the request of the penitentiary authority or made available to them in any other way. The convicted person may use the healthcare services subject to fees or partial fees as defined by law against the fee imposed. The penitentiary institution may assume the costs – in particularly deserving cases – of such fees.

g. NPM assessment

According to the NPM's experience, in penitentiary institutions only home medical care is typically provided (as a member of staff or under a civil law contract) (an exception is Szeged Prison and Penitentiary), and prisoners are transferred to specialised clinics or to the health institutions of the Bv. or to the nearest hospital or dentist's. In addition, at least 1 psychologist worked in all facilities. SPT Council CAT/OP/10¹¹⁴ according to point 9(s), during a Covid-19 epidemic, in view of the increased risk of infection, appropriate psychological support must be provided to both persons deprived of their liberty and staff members in places of detention. The CPT, in its Statement of Principles for the Management of Persons Deprived of their Liberty in relation to the Coronavirus Pandemic, has drawn attention to the need to provide additional psychological support to detainees in addition to the general care provided in the event of an epidemic.¹¹⁵

The admission procedure usually involves a three-step medical examination: first, the medical staff member records the detainee's medical details, smoking habits, other addictions, regular medication needs, any signs of external injuries, then the doctor examines the detainee as necessary, arranges his/her medication (if necessary), dietary requirements, and, as a third step, the psychologist also assesses his/her condition. (In some institutions, the first two stages are carried out together.) Psychologists aim to meet the detainee as soon as possible on admission, within a few days. If they receive a specialised signal, for example from the reintegration officers, they will see the detainees out

¹¹⁴ OHCHR (2020), [Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic](#), 2 April 2020.

¹¹⁵ CPT: COVID-19 Declaration [CPT/Inf(2020)13], point 6.

of turn. Visits are carried out on a regular basis, so detainees may have indicated verbally during the visit that they would like to see the psychologists. Otherwise, they could indicate this request by means of a request form or through the KIOSZK (administrative help for prisoners) system. During the intake, general psychological status, drug use and suicide are recorded. If necessary, placement in a single or multi-person cell is also proposed.¹¹⁶

Special admission rules were applied during the epidemic. The NPM has not found any irregularities in the application of these rules. During the visit, the special admission protocol laid down in Act LVIII of 2020 was in force at the Institute in view of the epidemic situation. According to this, if the health condition of a prisoner presenting for the commencement of imprisonment makes it appear necessary to carry out epidemic isolation, the prison is obliged to refuse admission. In such a case, a certificate must be issued, stating that admission was refused for health reasons, and immediate arrangements must be made for the prisoner to be transferred to the nearest health establishment for epidemiological surveillance.¹¹⁷ Otherwise, the prisoner must be placed in the reception unit of the penitentiary institution for 14 days after admission, where he/she must be segregated. If, during this period, the prisoner does not require epidemiological isolation, the admission shall be carried out in accordance with the procedures laid down by the National Public Health Centre.¹¹⁸ Those admitted within 72 hours could be housed together, but the last to be admitted also had to wait 14 days. For women, juveniles, over 60s, chronically ill, smokers, obese (BMI > 30), homeless, sentenced to serve a sentence, an upper respiratory secretion test had to be performed during the admission if the detainee agreed, and repeated 4 days later. As the isolation could be terminated after the second negative result was received if the detainees were asymptomatic, they had to be placed separately from the other detainees in observation isolation. If there was documented non-sampling, the 14-day isolation was to be applied. If the sample was positive, the patient was sent to the Detention Health Centre in Tököl. If they were asymptomatic but positive, they were isolated. Inmates admitted for a period of less than 5 days were to be placed in the 14-day isolation without upper respiratory tract sampling. If for any reason (e.g. trial or specialist care) the detainee spent more than 6 hours outside the Institute, not including the duration

¹¹⁶ See for example: Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1030/2023 in connection with the visit of the National Penitentiary Institute in Tiszalök \(related case: AJB-1026/2023\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1030/2023. számú ügyben a Tiszalöki Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben (kapcsolódó ügy: AJB-1026/2023)]

¹¹⁷ Hungary, Act LVIII of 2020 on transitional rules and epidemic preparedness in connection with the end of an emergency ([2020. évi LVIII. törvény a veszélyhelyzet megszűnésével összefüggő átmeneti szabályokról és a járványügyi készülségről](#)), Article 237 (2).

¹¹⁸ Procedures for new coronavirus identified in 2020 (epidemiological and infection control rules to be followed) 7 November 2020; Hungary, Act LVIII of 2020 on transitional rules and epidemic preparedness in connection with the end of an emergency ([2020. évi LVIII. törvény a veszélyhelyzet megszűnésével összefüggő átmeneti szabályokról és a járványügyi készülségről](#)), Article 237 (1).

of transport, and/or required removal of protective equipment (mouth mask) for more than 15 minutes, he/she was also isolated for 14 days for observation upon return.¹¹⁹

The NPM considers that¹²⁰ post-admission testing of special group and high-risk detainees is a good practice, as it helps to ensure that the segregation requirements of the Prison Act are met for detainees separated for epidemiological surveillance purposes.¹²¹

The NPM found irregularities in relation to medication at the National Penitentiary Institute of Állampuszta.¹²² Both the Mandela Rules and the European Prison Rules require that the health services necessary for the patient in the penitentiary system, available in the State, even outside the penitentiary system, are provided to prisoners without discrimination on the basis of their legal status,¹²³ and, pursuant to clause 24.1 of the Mandela Rules, shall be provided free of charge. According to the CPT, health care in penitentiary institutions must be organised in such a way as to be able to meet the need for access to a doctor without undue delay.¹²⁴ As a result of the epidemic situation, the waiting time for medical examinations has also increased outside the penitentiary system, and the NPM does not find any irregularities in this respect. However, the failure to provide prisoners with the necessary medication is a violation of the right to physical and mental health.

In its investigation of the Bács-Kiskun County Penitentiary Institute, the NPM¹²⁵ assessed the provision of health care to infants in mother-child care as a good practice that promotes children's right to the protection and care necessary for their adequate physical development and their right to health and health services under the UN Convention on the Rights of the Child.

¹¹⁹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1190/2021 in connection with the visit of the Borsod-Abaúj-Zemplén County Penitentiary Institute](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1190/2021. számú ügyben a Borsod-Abaúj-Zemplén Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben), pp. 12–13.

¹²⁰ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1030/2023 in connection with the visit of the National Penitentiary Institute in Tiszalök \(related case: AJB-1026/2023\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1030/2023. számú ügyben a Tiszalöki Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben (kapcsolódó ügy: AJB-1026/2023)], p. 19.

¹²¹ Hungary, [Prison Act](#), Article 99 (1). Pursuant to Article 99 (3), prisoners of different levels of enforcement may be housed together for the purpose of treatment.

¹²² Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1224/2023 in connection with the visit of the National Penitentiary Institute of Állampuszta](#) (Alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1224/2023. számú ügyben az Állampusztai Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben), pp. 14–15.

¹²³ See Mandela Rules 24.1, European Prison Rules 40.3 and 40.5.

¹²⁴ [CPT/Inf (93) 12] paragraph 34.

¹²⁵ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in the context of his visits to the Bács-Kiskun County Penitentiary Institute in case AJB-1056/2023](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1056/2023. számú ügyben a Bács-Kiskun Vármegyei Büntetés-végrehajtási Intézetben tett látogatásaival összefüggésben), p. 18.

Upon admission, the detainee is first examined by a specialist nurse, who determines whether they have a contagious disease.¹²⁶ If they have any injuries, these are described. If the injury is such that it may have been caused by abuse, they must be taken immediately to a doctor, who will describe in detail what injuries they have.¹²⁷ No later than 72 hours after admission, the prison doctor must also examine them,¹²⁸ who will also describe any medical conditions they have had, their general state of health and whether they can work. On admission, the prisoner may ask to be tested for HIV infection. The test is voluntary and cannot be forced.

If the detainee has a **medical problem**, they have the right to be examined by a doctor,¹²⁹ but may not choose a doctor. If the detainee has a health problem, he or she can report it to the nurse or the supervisor in an emergency. If the problem is not urgent, it must be reported in writing to the reintegration officer.

Basic health care is free of charge for all detainees in the institution. This means that **the prison doctor will examine the detainees**, give them advice, prescribe medication or refer them to a specialist (e.g. internist, cardiologist) if they deem it necessary.¹³⁰ Basic care includes emergency dental care, but this is only free of charge in certain cases. Other dental care has to be paid for from the detainee's deposit and the institution is not obliged to provide it.¹³¹

The detainee is entitled to **preventive medical check-ups** (e.g. lung screening, dental check-up, gynaecological check-up).¹³²

¹²⁶ Hungary, Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons [[8/2014. \(XII. 12.\) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb joacímen fogvatartottak egészségügyi ellátásáról](#)], Article 3 (1).

¹²⁷ Hungary, Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons [[8/2014. \(XII. 12.\) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb joacímen fogvatartottak egészségügyi ellátásáról](#)], Article 3 (7).

¹²⁸ Hungary, Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons [[8/2014. \(XII. 12.\) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb joacímen fogvatartottak egészségügyi ellátásáról](#)], Article 3 (5).

¹²⁹ Hungary, [Prison Act](#), Article 157; Hungary, Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons [[8/2014. \(XII. 12.\) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb joacímen fogvatartottak egészségügyi ellátásáról](#)], Article 4.

¹³⁰ Hungary, Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons [[8/2014. \(XII. 12.\) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb joacímen fogvatartottak egészségügyi ellátásáról](#)], Article 4 (1).

¹³¹ Hungary, Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons [[8/2014. \(XII. 12.\) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb joacímen fogvatartottak egészségügyi ellátásáról](#)], Article 11.

¹³² Hungary, Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons [[8/2014. \(XII. 12.\) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb joacímen fogvatartottak egészségügyi ellátásáról](#)], Article 5.

Detainees must pay the full cost of **medicines and medical supplies**. If they are entitled to a price subsidy, they must show their entitlement document (social security card, public health insurance card). Until they present it, they must pay the full price.¹³³

Pregnant mothers and children in the mother-child unit may receive medicine and medical aids free of charge.¹³⁴ Medicine, medicinal preparations (e.g. ointments) and medical aids may be carried by prisoners only with the permission of the prison doctor. This authorisation must be shown on request. If a prisoner is taking medication that cannot be kept in a cell (e.g. sedatives, sleeping pills), it will be stored in the health department of the prison. The prisoner will then receive his medication at the daily medicine distribution.

No medication or medicinal products may be sent in a package or brought in during the visit, except if the institution is unable to obtain the medicine, therapeutic product or other medication. In such cases, the detainee's contact person may send it in (on the advice of the prison doctor, if the prison commander gives permission).

The medical care of detainees is organised as follows:¹³⁵ Prison doctors are available in all prisons. Anyone who is ill but whose illness is not serious enough to require hospitalisation will be placed in **the medical department of the prison**, on the recommendation of the prison doctor.¹³⁶ If the prisoner cannot be treated in the institute, the prisoner shall preferably be transferred to the **Central Prison Hospital**,¹³⁷ which is located at the Eastern border of the country to Romania, thus, it is very far from most of the other penitentiary institutions and many detainees' family members.

The detained person must be **transferred to an outpatient department of a hospital** or an outpatient clinic if

- the care is urgent and the loss of time involved in the transport would endanger the health of the detainee
- their examination and treatment cannot be carried out in the prison establishment
- cannot be sent to a prison health facility because it is too far away and transport would be expensive,

or

¹³³ Hungary, Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons [[8/2014. \(XII. 12.\) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb jogcímen fogvatartottak egészségügyi ellátásáról](#)], Article 3 (4).

¹³⁴ Hungary, [Prison Act](#), Article 156 (1).

¹³⁵ Hungary, [Prison Act](#), Article 160–163.

¹³⁶ Hungary, Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons [[8/2014. \(XII. 12.\) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb jogcímen fogvatartottak egészségügyi ellátásáról](#)], Article 8 (1).

¹³⁷ Hungary, Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons [[8/2014. \(XII. 12.\) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb jogcímen fogvatartottak egészségügyi ellátásáról](#)], Article 14 (1).

- the examination and treatment cannot be carried out in the prison medical establishment
- the extent of his incapacity for work or loss of working capacity can be established in this way
- the examination and treatment will enable them to recover much faster or to return to work much faster.¹³⁸

Prisoners have **the right to refuse health care**,¹³⁹ however, there are situations when they cannot refuse healthcare, and these are: if they pose danger to themselves or others; if their life is in danger because of an accident or illness; if there is an epidemic or if they have a contagious disease.

In spite of an existing detailed regulation on medical care of detainees, **the HHC receives many complaints from them about the insufficient healthcare services provided for them.**

9. Prevention of violence and ill-treatment

a. Protection from violence by prison staff

Article 301 of the Hungarian Criminal Code states that a public official who assaults another person in the course of his duties is guilty of an offence punishable by one to five years' imprisonment. If the offence is committed in a group, the penalty is two to eight years' imprisonment. Anyone who commits an assault in the course of an official act with the intention of committing a crime, is guilty of a misdemeanour punishable by up to one year's imprisonment. The penalty may be reduced without limit if the circumstances of the offence are disclosed to the authorities before the charge is brought.¹⁴⁰

Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine provides that, in the case of convicted persons and persons detained on other legal grounds who are victims of a criminal offence, if the convicted person or person detained on other legal grounds becomes a victim of a criminal offence, the correctional facility or institution shall take all necessary measures to facilitate the implementation of the provisions of Act XC of 2017 on Criminal Procedure regarding the rights, protection and lenient treatment of victims during detention, in particular by providing appropriate information. The commander of the prison shall ensure that the victim and the accused are not placed in the same cell or living quarters, are placed in different departments if the conditions are met, are cleaned at different times or in different rooms, are transported at the same time in separate transport vehicles, and are not in direct contact with each other when they are produced on the same case, during education, employment and joint religious practice, or during reintegration or joint sports or cultural programmes. If the law permits co-housing and the protection of a

¹³⁸ Hungary, Ministerial Decree No. 8/2014 (XII. 12.) on the healthcare of inmates and other persons detained for other legal reasons [[8/2014. \(XII. 12.\) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb jogcímen fogvatartottak egészségügyi ellátásáról](#)], Articles 12 (2)–(3), (13).

¹³⁹ Hungary, [Prison Act](#), Article 158.

¹⁴⁰ Hungary, Act C of 2012 on the Criminal Code ([2012. évi C. törvény a Büntető Törvénykönyvről](#)), Chapter XXVIII.

convicted person who has been the victim of a crime or a person detained for other reasons cannot be ensured in the relevant unit, they should be transferred to another prison.¹⁴¹

b. Protection from violence by other detainees

The commander of the prison shall ensure that the victim and the accused are not placed in the same cell or living quarters, are placed in different departments if the conditions are met, are cleaned at different times or in different rooms, are transported at the same time in separate transport vehicles, and are not in direct contact with each other when they are produced on the same case, during education, employment and joint religious practice, or during reintegration or joint sports or cultural programmes. If the law permits co-housing and the protection of a convicted person who has been the victim of a crime or a person detained for other reasons cannot be ensured in the relevant unit, they should be transferred to another prison.¹⁴²

c. NPM assessment

The NPM did not reveal any signs of physical abuse during the reference period. In general, it drew attention to the risk of the prohibition of inhuman, degrading treatment or punishment being jeopardised, as the shortage of staff, in particular the risk of virus infection during the epidemic and the changes in the normal way of life due to the preventive measures taken, placed both the prisoners and the staff under increased psychological strain, and staff members, could have been liable to adversely affect the treatment of detainees, thereby jeopardising the prohibition of inhuman or degrading treatment or punishment.¹⁴³

Findings of the NPM on verbal abuse in the investigation of the Vác Prison and Detention Centre.¹⁴⁴ According to the detainees, there was no physical aggression or mistreatment either by staff members

¹⁴¹ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 5/B.

¹⁴² Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 5/B.

¹⁴³ Hungary, Commissioner for Fundamental Rights in Hungary (Alapvető Jogok Biztosa) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-750/2021 in connection with the visit to Sopronkőhida Prison and Detention Centre \(Previous case: AJB-2727/2020\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-750/2021. számú ügyben a Sopronkőhidai Fegyház és Börtön látogatásával összefüggésben (Előzmény ügy: AJB-2727/2020)], pp. 7–8, and Commissioner for Fundamental Rights in Hungary (Alapvető Jogok Biztosa) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1190/2021 in connection with the visit of the Borsod-Abaúj-Zemplén County Penitentiary Institute](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1190/2021. számú ügyben a Borsod-Abaúj-Zemplén Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben), p. 9.

¹⁴⁴ Hungary, Commissioner for Fundamental Rights in Hungary (Alapvető Jogok Biztosa) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1028/2023 in relation to the visit to the Vác Prison and Detention Centre](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1028/2023. számú ügyben a Váci Fegyház és Börtön látogatásával összefüggésben), p. 11.

or by fellow detainees. One detainee mentioned that he was verbally abused by his peers. The 27th point of General Report No. 11 of the CPT¹⁴⁵ stressed that the duty of guards in guarding detainees also extends to protecting them from other detainees who may wish to harm them. Violence between detainees is a regular occurrence in all detention facilities, ranging from mild forms of harassment to outright intimidation and serious physical abuse. According to the NPM report, the prohibition of degrading treatment is jeopardised if the institution is unable to ensure that aggression, whether physical or verbal, does not occur between detainees. The problem of the performance of security duties by staff in positions of trust was highlighted by the NPM in its report AJB-1224/2023, which may indirectly hinder the detection of abuse and other forms of misconduct.¹⁴⁶ The CPT pointed out that the significant amount of overtime worked by guards “can easily result in guards being subjected to a high level of stress and burn-out, i.e. a situation which increases the tension which is inherent in any prison”.¹⁴⁷ In an epidemic situation, the risk of infection and the measures taken to prevent it also place an increased psychological strain on both detainees and staff due to changes in normal life patterns. In the view of the NPM, the temporary assignment to security duties of persons whose duties would otherwise require them to develop a relationship of trust with detainees (e.g. psychologist, reintegration officer) is particularly likely to have a negative impact on the treatment of detainees. In view of this, the shortage of staff in the Institute has jeopardised the application of the prohibition of inhuman or degrading treatment or punishment.

As regards the complaints mechanism, in general, detainees were able to lodge complaints with the governors/reintegration officers orally or in writing, through the complaints box or through the Critical Infrastructure Warning Information Network (CIWIN) system. The NPM found a violation of the right of foreign detainees to lodge complaints during its investigation of the Tolna County Penitentiary Institute.¹⁴⁸ The NPM asked the Institute’s management for information on how foreign detainees were able to exercise their right to complain. The management explained that all foreign detainees are informed at the time of admission whether they wish to be notified to the competent consulate. A consular inspection had already taken place at the Institute, but no irregularities had been found. The commander added that detainees can communicate with the institute’s chaplain in Ukrainian, the

¹⁴⁵ CPT/Inf(2001)16.

¹⁴⁶ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1224/2023 in connection with the visit of the National Penitentiary Institute of Állampusztá](#) (*Alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1224/2023. számú ügyben az Állampusztai Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben*), p. 10.

¹⁴⁷ CPT General Report No. 11 [CPT/Inf (2001) 16], paragraph 26.

¹⁴⁸ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1152/2023 in connection with the visit of the Tolna County Penitentiary Institute \(Previous case: AJB-462/2022\)](#) [*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1152/2023. számú ügyben a Tolna Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (Előzmény ügy: AJB-462/2022.)*], p. 11.

psychologist in English and several educators in German. For communication with foreign detainees, Italian and Romanian interpreters were needed most of the time. The interviewed foreign detainees reported that the staff members treated them in a humane way and were helpful. They could communicate with the guards in Romanian, English and German. They said that they had also learned “a little Hungarian” at the Institute. However, there were also some who could only communicate with the staff “with their hands and feet”. Because of the communication difficulties, they could not discuss everything with the guards, who only said “I don't know”. The foreign detainees said that they used to ask other detainees for help with translation, but that they were reluctant to tell their problems because they felt uncomfortable about the other detainees knowing about their problems. It is contrary to the prohibition of degrading treatment in Article III of the Fundamental Law if detainees are unable to communicate effectively with staff members and therefore have to rely on other detainees for interpretation.

The difficulty of communicating with foreign detainees and the resulting abuse of the prohibition of degrading treatment were identified by the NPM during an investigation of the Hajdú-Bihar County Prison.¹⁴⁹

As the NPM warned in several of its monitoring reports,¹⁵⁰ there is a real risk in Hungarian prisons that severe staff shortages might jeopardise the effective prevention of violence both between detainees and by staff members.

Based on the HHC's information, inmates are, in theory, aware of the potential internal remedy processes in penitentiary institutions, but these are practically unavailable for them. Furthermore, laws and internal regulations are not or adversely implemented in practice. A blatant example of the latter is that according to the regulations and the official information issued by the NPA,¹⁵¹ an inmate may receive a reward – having a strong effect on the possibility of early release – at any time without any limitation concerning its regularity, but in practice, inmates are informed that they only can be rewarded once every half a year. (Nevertheless, inmates may receive a disciplinary sanction – strongly hindering the early release – at any time.)

¹⁴⁹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1682/2023 in the context of the visit of the Hajdú-Bihar County Prison \(Follow-up\)](#) [*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1682/2023. számú ügyben a Hajdú-Bihar Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (utóvizsgálat)*], p. 10.

¹⁵⁰ See the following reports of the NPM: [AJB-1152/2023](#); [AJB-1056/2023](#); [AJB-1028/2023](#); [AJB-1024/2023](#); [AJB-1224/2023](#); [AJB-1030/2023](#); [AJB-1151/2023](#); [AJB-1682/2023](#). It is important to note that written reports of visits typically are not published until years later. Thus, the majority of the most recent reports published in 2023 are for visits in 2020 and after. Written reports on visits in 2023 (with a few exceptions) have yet to be published.

¹⁵¹ Source: Letter no. 30500/10487-/2022 by the National Prison Administration, issued on 12 December 2022.

10. Contact with the outside world

a. Visits

Act CCXL of 2013 on the execution of penalties, measures, certain coercive measures and misdemeanour detention states in Article 105 that, if more lenient enforcement rules are applied the convict may also receive their visitor outside the law enforcement institution. During the term of separation any communication with visitors shall be permitted in a special security room or through a special safety device. During the execution of solitary confinement, the convict may not receive visitors, except for the pastor as well as the future employer, the probation supervisor and the representative of the charity, in order to prepare for the release. As the Act stipulates in Articles 186–187 that the convict may receive visitors at least on a monthly basis. The conversation between the convict and the visitor may be monitored, and the convict and visitor shall be informed about such an option. If it is reasonable for the security of the law enforcement institution, then the commander of the law enforcement institution may ordain to the convict to speak to the visitor in a security speaking cabin or through fences. All those persons shall be excluded from the visit who were interdicted from that by the prosecutor or the court in order to ensure the effectiveness of the criminal proceeding in progress, and all those persons whose conduct poses a threat to the security of the law enforcement institution and the detention. The visit may be interrupted if the convict or the visitor violates the order of the visit and does not stop such conduct despite the warning. The visit shall be interrupted provided that the necessary measures are taken, if the convict's or the visitor's behaviour directly violates the order of the law enforcement institution and the detention security or poses threat thereto. The convict may receive visitor outside the law enforcement institution under the provisions relating to the sentence severities and regimes of the imprisonment. For the duration of the visit outside the law enforcement institution, the commander of the law enforcement institution may permit the issuance of spending money funded by the convict's deposit money. The duration of the visit outside the law enforcement institution shall be included into the duration of the imprisonment. In case of the reception of visitor outside the law enforcement institution, the convict may leave the law enforcement institution only after the visitor has arrived at the law enforcement institute. The reception of visitors outside the law enforcement institution may be permitted to the convict who served one third of the sentence, spent at least one year in penitentiary, at least six months in prison, at least three months in remand prison or was placed into transition unit.

A visit by the contact persons shall be permitted for the juvenile in every two weeks for a minimum period of 30 minutes and a maximum period of two hours. The visit shall take place in a designated room of the young convict institution. The number of the visitors of a juvenile shall be maximum four at

a time. The visitors may hand over to the juvenile food but for any other thing they are required to get a permit. The visit may be interrupted if the juveniles or their visitors violate the rules of the visit and fail to discontinue such violation after a warning. The visit shall be interrupted if the behaviour of the juveniles or their visitors directly violates or threatens the safety of the institution. In a justified case the director may authorise an emergency visit. The juvenile is entitled to receive a visitor representing a church, civil organisation or charity organisation once a week. In the course of applying the general rules, the persons in pre-charge detention may contact their visitors in a secure booth or through secure technical devices. In the course of applying more lenient rules, the persons in pre-charge detention may be permitted to receive visitors in a designated room. The persons in pre-charge detention shall be entitled to receive visitors at least on a monthly basis. The person in pre-charge detention may receive a visitor, under supervision, at least once in a month. The duration of the visit shall be one hour at a time. This right of the person in pre-charge detention may be restricted on the basis of the decision of the person exercising the power to make decisions. Subject to the instructions of the person exercising the power to make decisions under Article 382, the person in pre-charge detention shall be permitted to receive a visitor and a package within seventy-two hours of the date of the order of the pre-charge detention. A person ordered to confinement replacing regulatory fine may receive a visitor at least on three occasions per week.¹⁵²

b. Correspondence

Act CCXL of 2013 on the execution of penalties, measures, certain coercive measures and misdemeanour detention, according to Article 180, says that methods of contact in prisons are: correspondence, electronic mail, telephone conversation through the telephone line provided by law enforcement institution or the detainee's cell phone, Internet-based phone calls and Internet-based video telephone, sending and receiving packages, accepting visitors, reception of visitors outside the law enforcement institution, evening-out possibilities and leave (for a predetermined period). The letter correspondence is unlimited.

c. Visits with children

If the convicted person has a minor child, unless the court has prohibited contact with the child or the convicted person may receive visitors only in a secure cell or through a bar, they may receive their minor children, accompanied by an adult, for at least one hour and not more than two hours in a family

¹⁵² Hungary, [Prison Act](#).

meeting, in accordance with the legal provisions applicable to each category, but at least once every six months.¹⁵³

d. NPM assessment

The Covid epidemic has also brought about a major change in the way and the rules of communication. Prisons were practically closed, face-to-face visits were discontinued and forms of contact by technical means (telephone, video call) were introduced. In all prisons, prisoners were able to make use of increased telephone time and electronic contact to compensate for the ban on visiting.

During its Covid profile visits, the NPM did not find any evidence of a fundamental rights abuse with regard to the limited contact possibilities for prisoners in view of the epidemic situation. Maintaining the possibility to communicate electronically may have a positive impact on the frequency of contact with relatives, which the NPM has found to be adversely affected by the high per-minute cost of telephone calls, which is a recurrent complaint from detainees. However, the NPM has repeatedly pointed out that telephone and electronic contact cannot replace the possibility for prisoners to see their relatives in person, and that, therefore, if it is feasible to do so without significant risk of infection, taking the necessary precautions, during the course of an epidemic, the possibility of visiting should be provided.¹⁵⁴

Experience has shown that increased call times and the fight against the epidemic have caused several logistical problems in prisons. According to the NPM, it is causing an abuse of the right to respect for the right to be treated with contempt and the right to respect for contact,¹⁵⁵ if prisoners are unable to contact relatives by phone due to the prison's schedule. In addition to the prison mobile phone, prisoners were also allowed to use a wall phone. One of them said that he could not pay the deposit for the prison mobile phone, so he would have used the wall phone. The prisoners are allowed to be outside for 12-14 hours, but there are services where they can only be outside for 1 hour. On these occasions, all detainees are allowed to use the phone in the building between 12 and 1 pm, but this is not enough

¹⁵³ Hungary, [Prison Act](#), Article 177 (1a).

¹⁵⁴ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-874/2021 in relation to the visit to the Mariánosztra Prison and Detention Centre](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-874/2021. számú ügyben a Márianosztrai Fegyház és Börtön látogatásával összefüggésben*), pp. 14–17; Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1224/2023 in connection with the visit of the National Penitentiary Institute of Állampusztá](#) (*Alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1224/2023. számú ügyben az Állampusztai Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben*), pp. 17–20.

¹⁵⁵ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1024/2023 in connection with the visit of the National Penitentiary Institute of Central Transdanubia to the Baracska Facility](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1024/2023. számú ügyben a Közép-dunántúli Országos Büntetés-végrehajtási Intézet Baracsikai Objektumának látogatásával összefüggésben*), p. 17.

to ensure that everyone gets a turn. The detainee's wife works until the afternoon and his daughter only gets home from school in the afternoon, so he has not been able to speak to them on the phone since he has been in the Facility.

The problems of visitor reception in Plexiglas have been highlighted by the NPM in several reports¹⁵⁶ drew attention to the fact that the introduction of contact restrictions due to Covid, in particular the suspension of visiting hours, has made it very difficult for detainees to have meaningful contact with their families. The complete cessation of physical contact is extremely detrimental to family relations, especially for detainees who have children. Research by the Group representing Prisoners and their Families (FECSKE)¹⁵⁷ several relatives reported growing tension and estrangement in the family. The NPM found that the right to family life under Article VI of the Fundamental Law and the prohibition of degrading treatment under Article III of the Fundamental Law could result in an abuse if detainees, regardless of their security classification, could only meet their relatives separated by Plexiglas.

The Ombudsman, acting under his general powers, has also investigated¹⁵⁸ the lawfulness of the reception of visitors with a Plexiglas wall and concluded that the conversion of the visitors' room by separating the table and the counter in the room with a partition at least 20 cm high in the middle violates the right of the detainee and his contact person to respect for private and family life and for the maintenance of contact, as enshrined in Article VI (1) of the Fundamental Law. It also held that the absence of any physical contact (handshake, hugging, kissing) between the detainee and his relative at the beginning and end of the visit may violate the right to privacy and the right to a fair trial. The right of the detainee and his/her relative to human dignity as declared in Article II of the Fundamental Law, the right to physical and mental health as laid down in Article XX (1) of the Fundamental Law, and the right to respect for private and family life and relations as laid down in Article VI (1) of the Fundamental Law. The legal provisions governing contact do not include any restrictions that would make the

¹⁵⁶ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT by the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1151/2023 in connection with the visit to the National Penitentiary Institute in Kiskunhalas \(Follow-up\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1151/2023. számú ügyben a Kiskunhalasi Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben (utóvizsgálat)], p. 10; Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1682/2023 in the context of the visit of the Hajdú-Bihar County Prison \(Follow-up\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1682/2023. számú ügyben a Hajdú-Bihar Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (utóvizsgálat)], pp. 13–14.

¹⁵⁷ Hungary, FECSKE – Group representing Prisoners and their Families (*FECSKE – A Fogvatartottakat és Családjukat Képviseelő Csoport*) (2021): Relationship management in the penitentiary system – situation ([Kapcsolattartás a büntetés-végrehajtásban – helyzetkép](#)), pp. 29–30.

¹⁵⁸ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights in Case No AJB-1262-29/2023 in the context of contact, visitors' reception, the scope of objects that may be kept in cells, the obligation to pay bail for prisoners' telephones in prisons \(previous case: RI-AJBH-656/2020\)](#) [Az alapvető jogok biztosának JELENTÉSE az AJB-1262-29/2023. számú ügyben a büntetés-végrehajtási intézetekben a kapcsolattartással, látogatófogadással, a zárkában tartható tárgyak körével, a fogvatartotti telefonokért való óvadékfizetési kötelezettséggel összefüggésben (előzmény ügy: RI-AJBH-656/2020)].

registration of contact persons in the register dependent on the frequency of contact with the prisoner, whether the contact person is a released prisoner or not, and whether the contact with a person who is not a relative is intended to preserve a family or friendship or other reasonable social relationship. In the Ombudsman's view, such information alone does not allow a clear and unequivocal conclusion to be drawn that such contact would jeopardise the order of the prison or the security of detention, or might be contrary to the purpose of the sentence or hinder the prisoner's reintegration into society. The fact that the National Prison Commander has made registration in the register of contact persons subject to requirements which are not laid down in the relevant legislation infringes the requirement of legal certainty laid down in Article B (1) of the Fundamental Law and the right of prisoners to respect for their right to contact laid down in Article VI (1) of the Fundamental Law.

He also welcomed the fact that at the time of the publication of the report, OP 13/2017 (II. 6.) on the procedural rules for the implementation of reintegration tasks of the National Commander of the Penitentiary System, which was still in force at the time of the submission of the complaint, was repealed. According to the provision of the replaced BVOP Instruction 12/2020 (24.04.20), family visits may be allowed to prisoners in a lenient and general regime who have not been disciplined within 6 months prior to the day of the visit and have not received a disciplinary sanction for possession of a prohibited object within 2 years. Under this provision, a further differentiation between regime categories has, therefore, been introduced.

The Commissioner for Fundamental Rights has launched a general inquiry into the per-minute charges for prison mobile phones. In its report AJB-2236/2021¹⁵⁹ the Ombudsman found that the current rules on telephone contact for prisoners, excluding the exceptional rules resulting from the emergency declared because of the coronavirus epidemic, in particular the applicable tariffs, may infringe the fundamental right to respect for private and family life and may cause an infringement of the right to privacy laid down in Article VI of the Fundamental Law. As a result of the report, the BVOP has reduced per-minute charges by HUF 6.

The measures the NPA has introduced since the *Takó and Visztné Zámbo v. Hungary* judgment do not comply with the spirit of the ECtHR's arguments. According to Article 10 of Order 7/2024 (14 March) of the NPA,¹⁶⁰ in force since 22 March 2024, "a complete floor-to-ceiling partition shall be used during the visit for prisoners who have received a disciplinary sanction in the year preceding the visit. All forms of physical contact between a prisoner and his/her visitor are prohibited." The provision thus continues to

¹⁵⁹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights in Case AJB-2236/2021 concerning the per-minute charges for telephone calls to prisoners \(Previous case: 721/2020\)](#) [Az alapvető jogok biztosának JELENTÉSE az AJB-2236/2021. számú ügyben a fogvatartottak telefonos kapcsolattartásának percdíjaival összefüggésben (Előzmény ügy: 721/2020)].

¹⁶⁰ Hungary, [NPA Order 7/2024 \(III. 14.\)](#), Article 10.

prohibit all forms of physical contact in general terms, while making the use of Plexiglas dependent not on individual security considerations but on the existence of a general condition from the past (disciplinary sanction received in the previous year). In addition, disciplinary sanctions are often misleading indicators of the security risk posed by visits: prisoners have been sanctioned for such things as dropping a button or greeting a prisoner of the opposite sex while walking.

Furthermore, even in the general strict regime where physical contact is prohibited, data show that only a minority of detainees (22-23%) receive visitors at all within one month.

11. Special measures for female detainees

a. General conditions of detention for women and girls

In general inmates shall be provided with a hot water bath at least three times a week, and female inmates and working inmates shall be provided with a hot water bath every day after work.

Prisoners may be provided with hot water between regular baths within the limits of the prison's facilities, as specified in the schedule. Female inmates shall also be provided with hot water between regular baths.¹⁶¹ A pregnant woman or a woman with young children can buy necessities for the birth of her child without restriction from the social security benefit, as long as the child is accommodated with her in prison.¹⁶²

b. Separation from men

By law, men must be segregated from women when serving their sentences, which means they are either kept in completely separate cells (wings) or in completely separate facilities. Female and male prisoners may not be placed in the same room/cell/wing.

c. Hygiene

According to Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine, the basic hygiene and equipment items provided by the prison to a female prisoner without a deposit are soap, toothbrush, toothpaste, toothbrush cup, comb, toilet paper, sanitary towel, tampon, sanitary napkin, shampoo.¹⁶³

¹⁶¹ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 132 (1–2).

¹⁶² Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 133 (3).

¹⁶³ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)].

d. Healthcare

See answer e.

e. Pregnancy and women with babies or young children

Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine provides in Articles 20–24 rules for the protection of mother and child. If a detainee indicates that she is pregnant, she shall be offered a free rapid pregnancy test within forty-eight hours of her request. The pregnant prisoner shall be transferred to the Prison Health Centre (hereinafter: BVEK) for care within three working days of the medical examination. A woman who is entitled to care for a pregnant woman may apply in writing to the BVEK for benefits relating to her pregnancy and the birth of her child. Any change in the circumstances affecting entitlement must be reported to the Director-General of the BVEK within three working days of the date on which the change came to her knowledge. If the prisoner has not been granted a suspension of her sentence because of her pregnancy, she must be transferred four weeks before the expected date of delivery. If the prisoner continues to work at her own request after the sixth month of pregnancy, she shall be released from work 28 days before the expected date of delivery. Such release shall be granted by the prison doctor for the same period as the maternity leave, unless the woman giving birth is exempted from the obligation to work by virtue of her status as a woman in prison. After a pregnant prisoner has been admitted to the prison, the Director-General of the Hungarian Prison Service (hereinafter: BVOP) contacts the prison authorities of the prisoner's place of residence to ask whether they consider it necessary to take measures to accommodate the unborn child and whether they intend to initiate proceedings to terminate parental custody. On the basis of the notification from the Director-General of the BVEK, the BVOP shall arrange for the mother and the child to be transferred to a prison with a section for shared accommodation (hereinafter referred to as the mother-child section). The BVOP must be notified of this 15 days before the expected date of birth of the child. The Director-General of the BVEK notifies the father, the guardianship authority of the mother's place of residence and, in the case of a detained minor mother, the legal representative of the child. If the mother and the child cannot be placed together, the Director-General of the BVEK or the Commander of the detention facility shall initiate action by the custodial authority of the place of detention to place the child. The child shall not be released pending the action of the guardianship authority. Visits shall be subject to the authorisation of the Director-General of the BVEK or the head of the detention facility. If the mother mistreats the child or otherwise endangers the child's physical, mental or moral development, the head of the penitentiary establishment shall take immediate measures to prevent the child from being endangered

and shall immediately inform the guardianship office of the penitentiary establishment to take the necessary measures.¹⁶⁴

The mother-child unit is separate from the rest of the prison. In the mother-child unit, a mother and her child may be accommodated in the same unit. When the child is in the accommodation, the door shall be kept open at all times of the day. The furnishings of the unit and the living quarters shall be supplemented by such furniture and equipment as are necessary for the accommodation and care of the child and which meet public health requirements, and provision shall be made for continuous health surveillance. The child shall be accompanied by the mother for medical examinations and compulsory vaccinations. If the child is hospitalised, the detained person shall be allowed to visit the child under supervision at least once a week. Such visits may be refused only in exceptional circumstances, such as when the child's hospitalisation is necessary because of the mother's dangerous behaviour, the presence of a communicable disease or safety concerns. During hospitalisation, the child will be given breastmilk if necessary on the basis of the paediatrician's opinion.¹⁶⁵

If the existence of a pregnancy is confirmed by an obstetrician-gynaecologist, the prisoner shall state whether they wish to continue the pregnancy or terminate it. In the case of a prisoner, the provisions of Act LXXIX of 1992 on the Protection of Foetal Life shall apply to the termination of pregnancy. Abortion may be performed in the LPPF up to the 12th week of pregnancy.¹⁶⁶

f. NPM assessment

In the NPM's experience, in prisons where there were both male and female prisoners, segregation was enforced at the cell level, otherwise there were generally mixed female and male cells at the other levels. However, in some institutions a separate women's ward was designated if the architecture of the building allowed it.

As regards the provision of hygiene products and general hygiene, see also the provision of sanitary facilities for women. See point 3. See point 5 for problems relating to employment. The B-A-Z County Penitentiary Institute has placed great emphasis on providing meaningful activities for detainees in the

¹⁶⁴ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)].

¹⁶⁵ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)].

¹⁶⁶ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)].

cell (for example, they have prepared a set of illustrated exercise aids for female detainees that can be practiced in the cell).¹⁶⁷

Mother and child section at the Bács-Kiskun County Prison.¹⁶⁸ The mother-child unit allows for the co-housing of children under one year of age with their mothers, ensuring that, according to psychological literature, the mother and her child are not separated during the most important first year of bonding. The mothers usually breastfeed their babies – the mother in Facility II was breastfeeding at the time of the visit – but the nurses prepare a personalised feeding plan for each infant, including the complementary feeding.

The data show that the majority of children (40.74%) were able to go home with their mothers. Another quarter of children were placed with their own family without their mother and the same number of children were placed in foster care. During the period under review, one child was placed in a children's home and another child changed institutions with the mother and went to a reformatory. The shortest average length of stay (average 5.63 months) of infants in the period under review was when they were able to go home with the mother. Children who were adopted into their own family spent an average of 6.79 months in the Institute. Children stayed the longest when they could not go home to their own family and had to be placed in foster care (children placed in foster care spent an average of 7.64 months in the mother-child unit of the Institute). A small number of children (only 1) were placed in children's homes during the period under review, spending 6.5 months in the Institute. The infant who went with her mother to a correctional facility was in the Facility for 6 months.

A paediatrician, a nurse and a psychologist also worked at the Institution. The nursing staff consisted of 11 nurses (1 head nurse, 5 adult nurses, 5 paediatric nurses). The baby of the mother placed in the mother-child unit of Facility II was regularly seen by the paediatrician. The mother also received all the help she needed from the nurses in caring for the baby, but, being the mother's umpteenth child, she was confident in her approach to baby care. The NPM found no evidence of an abuse of a fundamental right in relation to the contact and departure of children placed in the mother-child unit. The NPM also pointed out that the fundamental rights of both women detainees and their children living outside the institution would be promoted if the prison authorities actively assisted women detainees in maintaining contact with their children. During the visit, the NPM observed that the placement of detained mothers with their children in the mother-child unit of Facility II, the conditions of placement,

¹⁶⁷ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1190/2021 in connection with the visit of the Borsod-Abaúj-Zemplén County Penitentiary Institute](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1190/2021. számú ügyben a Borsod-Abaúj-Zemplén Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben).

¹⁶⁸ Report No. AJB-1156/2023.

the health care provided for infants and the so-called “child watch” for the child and her relatives placed with the mother were considered good practice.

As to the **general conditions of detention for women and girls**, the high prison population rate has a negative effect on their detention conditions. Due to the prison population surge, there is a growing strain on capacity within penitentiaries to properly accommodate female inmates. Additionally, Hungary has a very high proportion of incarcerated women in comparison with Council of Europe countries: the median value is 5.1% among Member States,¹⁶⁹ while 8.1% of the Hungarian prison population consisted of female inmates on 31 October 2023. While placement of women had historically been concentrated in a few specialised penitentiaries in Hungary, whereas these days, female detainees are dispersed in 25 prisons. Those penitentiaries where an above-average number of women were accommodated are highlighted in the table below. These seven prisons held 84% of the female prison population while 18 others held the rest of the women, some of them accommodating only very few of them. There is only one prison (Kalocsa Strict and Medium Regime Prison) where the majority of detainees are women.

Table 3 – Number of female detainees in Hungarian prisons¹⁷⁰

Bács-Kiskun County Remand Prison (Kecskemét)	32
Balassagyarmat Strict and Medium Regime Prison	13
Baranya County Remand Prison (Pécs)	10
Békés County Remand Prison (Gyula)	9
Borsod-Abaúj-Zemplén County Remand Prison (Miskolc)	77
Central Hospital of the Prison Service	2
Budapest Remand Prison	179
Győr-Moson-Sopron County Remand Prison (Győr)	11
Hajdú-Bihar County Remand Prison (Debrecen)	20
Heves County Remand Prison (Eger)	21
Forensic Observation and Mental Intitution (IMEI)	33
Jász-Nagykun-Szolnok County Remand Prison (Szolnok)	15
Kalocsa Strict and Medium Regime Prison	267
Kiskunhalas National Prison	301
Middle-Transdanubian National Prison II. (Székesfehérvár)	12
Pálhalma National Prison	221
Somogy County Remand Prison (Kaposvár)	7
Szabolcs-Szatmár-Bereg County Remand Prison	7

¹⁶⁹ Aebi, M. F., Cocco, E., and Molnar, L., (2023), [SPACE I – 2022 – Council of Europe Annual Penal Statistics: Prison populations](#), Council of Europe and University of Lausanne, p. 3.

¹⁷⁰ Source: Response no. 30500/5563-7/2023 issued by the NPA to the HHC’s FOI request on 4 December 2023.

Szeged Strict and Medium Regime Prison	17
Szombathely National Prison	14
Tiszalök National Prison	131
Tolna County Remand Prison (Szekszárd)	4
Tököl National Prison	2
Veszprém County Remand Prison (Veszprém)	76
Zala County Remand Prison (Zalaegerszeg)	2
TOTAL	1 483

Women represent a minority within prison populations globally; they face more significant stigma than men and criminal justice systems routinely overlook their specific needs.¹⁷¹ In HHC’s experience, incarcerated women in Hungary also face an even harsher societal response to their involvement in crime than men and, therefore, have decreased access to support in reintegration.¹⁷² A special **mother-child unit** is operated within the prison system adapted to the special needs of mothers and their children, which is located on the premises of Bács-Kiskun County Remand Prison (Kecskemét). Mothers can stay there together with their babies up to the age of 12 months. Incarcerated mothers can give birth to their children in the Central Hospital at Berettyóújfalu, which lies near to the Eastern border of Hungary with Romania, thus quite far from many parts of the country where the detainees have their families.

12. Special measures for foreign nationals

a. General measures for foreign nationals

Articles 207–215 of Act CCXL of 2013 on the enforcement of sentences, measures, certain coercive measures and detention for misdemeanours stipulate that the diplomatic mission or consular post of the foreign convict’s nationality (hereinafter referred to as the “competent foreign mission”) must be notified immediately of the admission of a non-Hungarian convict (hereinafter referred to as the “foreign convict”). Notification may be dispensed with only if the foreign convict expressly requests this in writing. If the foreign convict has more than one nationality, the diplomatic mission or consular post chosen by the foreign convict shall be informed. The foreign prisoner shall be informed in a language which they understand if an international convention permits the transfer of the enforcement of the custodial sentence. At the foreign prisoner’s request, the prison shall, as far as possible, provide him with Hungarian language lessons during their imprisonment and programmes to familiarise them with

¹⁷¹ See, for example, Penal Reform International’s [short guide to the Bangkok Rules](#)

¹⁷² See, for example the HHC’s blogpost on women in detention: Hungary, HHC (2021), ‘[Ott áll az ember egyedül, nincs hova elinduljon, semmije sincs már – nők a börtönben](#)’ (‘Standing there alone with nowhere to go, nothing left – women in prison’), *Helsinkifigyelo.444.hu*, 24 November 2021.

the national, historical and moral values on which Hungarian society is organised. When a foreign prisoner is accommodated, it shall be ensured, as far as possible, that among the prisoners accommodated with them there is a person who speaks and understands the language used by them as well as the Hungarian language. Foreign prisoners who are in conflict with each other on national, ethnic, nationality or religious grounds may not be housed together. The costs of interpreting and translation (hereinafter referred to as “interpreting costs”) incurred by foreign prisoners in connection with the exercise of their rights and obligations in connection with the execution of their sentence shall be borne by the prison. If the foreign prisoner requests the services of an interpreter in a matter not related to the enforcement of the custodial sentence, the institution shall provide such services at the expense of the foreign prisoner. The provisions of the Code of Criminal Procedure shall apply to the costs of interpreting incurred by foreign prisoners in ongoing criminal proceedings. The foreign prisoner and the member of the competent foreign mission shall maintain contact in accordance with the provisions of the International Convention on Consular Relations and the treaties concluded by the States concerned, taking into account the provisions of the Act. Such contact may be established only with the consent of the foreign sentenced person. The foreign prisoner may also maintain contact with a member of the competent diplomatic mission or consular post during the period of solitary confinement. If the foreign national has been or is being prosecuted again, they may communicate with the consular representative of his State, both in writing and orally, and in person, without being subject to any control, while the order of detention is maintained. The consular representative of his State shall be granted access to the prison for the purpose of taking part in any procedural act to be carried out by the investigating authority in the prison with the participation of the foreign national prisoner. If the foreign prisoner or their representative requests the transfer of the enforcement of the custodial sentence to another State, the penitentiary shall forward the request to the competent prison judge of the court of first instance through the BVOP, if the remaining period of the sentence to be served does not preclude the transfer of the enforcement of the sentence. If the remaining period of the sentence to be served precludes the transfer of the enforcement of the sentence, the prison shall inform the sentenced person and their representative accordingly. If the foreign prisoner has not taken the initiative for the transfer of the enforcement of the sentence, and if the transfer of the enforcement of the sentence is not excluded in view of the remaining period of the sentence to be served, and if the transfer of the enforcement of the sentence is not subject to the consent of the prisoner, the penitentiary institution shall, through the BVOP, request the prison judge competent for the court of first instance to hear the prisoner in order to transfer the enforcement of the sentence. The penitentiary institution shall immediately notify the competent foreign representation if, to the knowledge of the penitentiary institution, a guardian or custodian is to be appointed for the foreign prisoner. The prison

shall immediately notify the competent diplomatic mission or consular post of the death of the foreign national prisoner. Thirty days before the expected release of the foreign national prisoner or, if the remaining period of imprisonment is less than 30 days, at the latest on the working day following the receipt of the judicial notification of the final decision on the case, or immediately after the date of release if the date of release so warrants, the prison shall notify the competent territorial aliens authority of the place where the court of first instance that issued the decision on the case is located of the release of the prisoner. The penitentiary institution shall notify the competent diplomatic mission or consular post and the BVOP of the release of the foreign national prisoner or his transfer to another State and, in the case of release, the passport authority at least three days before the release. The competent diplomatic mission or consular post shall not be informed by the prison if the foreign national has expressly requested this in a written statement.¹⁷³

b. Interpretation and translation

If the use of an interpreter is mandatory in criminal proceedings pursuant to Article 201 of the Code of Criminal Procedure, the entry of the interpreter provided by the defence counsel or on secondment shall be authorised, taking into account the provisions of the person exercising the power of disposal. The entry of an expert on secondment in criminal proceedings or an expert appointed to give a private opinion in accordance with Article 190 (3) of the Code of Criminal Procedure shall be permitted, taking into account the provisions of the person exercising the power of disposal. Access to the case file shall also be granted, upon timely request, during personal contacts with the expert responsible for drawing up the private expert opinion.¹⁷⁴

c. NPM assessment

Generally speaking, the NPM has found during its visits that foreigners who speak a common language, or people who understand each other in a common language, are placed in a cell, if separation rules allow.¹⁷⁵ In prisons, many staff speak English, German and the languages of neighbouring countries. The BVOP keeps a list of staff language skills at the conurbation level, so they can ask for help with translation

¹⁷³ Hungary, [Prison Act](#), Article 207–215.

¹⁷⁴ Hungary, [Prison Act](#).

¹⁷⁵ E.g. Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2022), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case No AJB-443/2022 in connection with the visit of the Baranya County Penitentiary Institute](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-443/2022. számú ügyben a Baranya Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben*), p. 17; Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2022), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case No AJB-464/2022 in connection with the visit of the Hajdú-Bihar County Penitentiary Institute \(Previous case: AJB-4385/2021\)](#) [*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-464/2022. számú ügyben a Hajdú-Bihar Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (Előzmény ügy: AJB-4385/2021)*], p. 12.

and interpretation if needed. BVOP has also purchased so-called interpreting machines and, if necessary, an interpreter has been called to the detainee (e.g. for reception) and the diplomatic mission of the nationality has been contacted. Hungarian language courses for foreigners were started in several prisons.¹⁷⁶ The information material was previously available in paper form, but is now available electronically through the KIOSZK system in nearly 20 languages. The language of the KIOSZK can be set, so that the detainee can manage his affairs and submit requests in his own language.

For more information, see point 9 on the complaints mechanism.

In the course of the investigation into the system of round trips in the Budapest Prison and Detention Centre,¹⁷⁷ the NPM drew attention to the fact that the foreign person must be informed about the transport in a language he or she understands.

Foreign nationals detained in Hungarian prisons are entitled to contact the consular office of their country and to communicate with its representative.¹⁷⁸ If they are held in pre-trial detention, communication between them and the consular officer cannot be supervised by the prison service.¹⁷⁹ At the foreign detainees' request, the prison service may provide them with Hungarian language lessons, provided that the necessary financial and other conditions are in place at the penitentiary.¹⁸⁰ According to the HHC's experience, such conditions are barely met, rendering these desired but only theoretical options.

When accommodating a foreign detainee, the prison service must ensure as far as possible, that there is at least one cellmate who speaks and understands both Hungarian and the language the foreign detainee uses. Foreign detainees who are in conflict with each other on grounds of nationality, ethnicity, nationality or religion may not be housed together.¹⁸¹ The foreign detainee is responsible for the customs and postal charges and other costs of the parcel sent to them.¹⁸²

¹⁷⁶ E.g. Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT by the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1151/2023 in connection with the visit to the National Penitentiary Institute in Kiskunhalas \(Follow-up\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1151/2023. számú ügyben a Kiskunhalasi Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben (utóvizsgálat)], p. 7.

¹⁷⁷ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT from the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1053/2023 in relation to the visit to the Budapest Prison and Detention Centre as the central site for the implementation of the round-up](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1053/2023. számú ügyben a Budapesti Fegyház és Börtön mint a körszállítás végrehajtásának központi helyszíne látogatásával összefüggésben), p. 15.

¹⁷⁸ Hungary, [Prison Act](#), Article 11 (3).

¹⁷⁹ Hungary, [Prison Act](#), Article 389 (1).

¹⁸⁰ Hungary, [Prison Act](#), Article 208.

¹⁸¹ Hungary, [Prison Act](#), Article 209.

¹⁸² Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 171.

On 27 April 2023, the Government adopted an emergency decree (invoking the state of danger ordered with a view to the war in Ukraine)¹⁸³ prescribing that **foreign detainees convicted of human smuggling** (i.e. the facilitation of illegal entry into the country) and expelled in the judgement (which is mandatory for all foreign smugglers) shall be released.¹⁸⁴ These detainees are simply released and must leave the country on their own accord within 72 hours. Therefore, the European Commission decided to open an infringement procedure by sending a letter of formal notice to Hungary¹⁸⁵ for failing to fulfil its obligations under the relevant Council Directive¹⁸⁶ to impose effective, proportionate and dissuasive sanctions for the offence of facilitation of unauthorised entry, transit and residence into the EU (i.e. migrant smuggling) and under the Council Framework Decision¹⁸⁷ that sets rules for criminal penalties regarding these offences. This policy was implemented as a measure to reduce overcrowding, as the Government saw the high number of foreign human smugglers as one of the root cause of overcrowding. The Department for the Execution of Judgments provided the following analysis in its notes to the Committee of Ministers responsible for the supervision of the execution of the ECtHR's judgments refuting this position of then Government:

“The authorities appear to link the increase of prisoners with arrests and convictions for human smuggling and suggest that the measures taken (adoption of decrees) have already resolved the situation. However, it is difficult to see how this could have been the major contributing factor given, as reported by the HHC, the negligible ratio of human smuggling cases compared to all registered criminal cases (1% in December 2023).¹⁸⁸ Furthermore, whilst it is true that the decrees decreased the ratio of foreign detainees, the overall prison population did not decrease, so they do not appear to have had the positive impact expected.”¹⁸⁹

The costs of **interpretation and translation** relating to the exercise of foreign detainees' rights and obligations in connection with the execution of the custodial sentence are borne by the penitentiary. However, if the detainee requests the assistance of an interpreter in a case not related to the execution of the detention, then the detainee must bear these costs.¹⁹⁰ As regards to the practical implementation

¹⁸³ Hungary, Government Decree No. 148/2023 (IV. 27.) on the reintegration detention of persons convicted of the offence of smuggling of human beings [[148/2023. \(IV. 27.\) Korm. rendelet az embercsempészség bűncselekmény miatt elítéltek reintegrációs őrizetéről](#)].

¹⁸⁴ See further details in the submission of the HHC in the proceedings of the Committee of Ministers following the enforcement of the cases of István Gábor Kovács and Varga and Others v. Hungary under Rule 9.2 of the Rules of Procedure of the Committee of Ministers, [DH-DD\(2024\)16](#), pp. 15–16.

¹⁸⁵ [INFR\(2023\)2095](#).

¹⁸⁶ Council Directive [2002/90/EC](#) of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence.

¹⁸⁷ [2002/946/JHA: Council framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence](#).

¹⁸⁸ Ratios over time: 0.1% (2019), 0.2% (2020), 0.4% (2021), 0.9% (2022), 1% (as of 4 December 2023).

¹⁸⁹ See paragraph 1 of the Analysis by the Secretariat regarding the implementation of the Varga and Others and István Gábor Kovács group v. Hungary cases (Applications Nos. 14097/12, 15707/10), [CM/Notes/1492/H46-18](#), 14 March 2024.

¹⁹⁰ Hungary, [Prison Act](#), Article 210.

of the provisions on interpretation and translation, the situation is less encouraging. Speaking foreign languages is a developing area in Hungary as according to Eurostat, more than half of the population spoke only one language in 2022.¹⁹¹ According to multiple speakers from the prison service, as it was said at a conference in 2022,¹⁹² hiring an interpreter is a costly and slow process, and for less widely spoken languages, it may be impossible to find an interpreter at all. At the same conference, the results of an in-house survey were presented by the then-vice commander of the Budapest Remand Prison:¹⁹³ of the 577 people working in there – to where prisoners sentenced by a foreign court must be placed until the transfer procedure is completed¹⁹⁴ –, only 125 (22%) had a language certificate and only 39 (7%) regularly used a foreign language. The experience of the HHC shows that the lack of foreign language skills of prison staff permeates the entire prison system.

Furthermore, the **NPM** has addressed the situation of foreign detainees in several monitoring reports.

- During its 2023 visit to the Hajdú-Bihar County Remand Prison, the NPM found that foreign detainees complained that they were unable to communicate meaningfully with staff members or even with their fellow detainees because they were placed in a cell with detainees who did not speak their language.¹⁹⁵
- During its 2021 visit to the Tolna County Remand Prison, foreign detainees said that some of them can communicate in Romanian, English and German with the prison staff. However, there were others who could only communicate with the prison staff “with their hands and feet”.¹⁹⁶
- During its 2019 visit to Budapest Strict and Medium Regime Prison, the NPM found that one of the detainees, a foreign national, was wearing a painkiller patch. They said that they did not

¹⁹¹ Eurostat (2024): [Number of foreign languages known \(self-reported\) by sex](#), 24 April 2024.

¹⁹² “The increasing number of foreign detainees in Hungarian prisons and related challenges” online conference of the Hungarian Society of Prison Affairs, 15 December 2022.

¹⁹³ Farkas P. (2022), ‘Procedures relating to foreign detainees in the practice of the Budapest Remand Prison’, online conference of the Hungarian Society of Prison Affairs, 15 December 2022.

¹⁹⁴ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 174 (2).

¹⁹⁵ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1682/2023 in the context of the visit of the Hajdú-Bihar County Prison \(Follow-up\)](#) [*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1682/2023. számú ügyben a Hajdú-Bihar Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (utóvizsgálat)*], Article 2.4.

¹⁹⁶ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1152/2023 in connection with the visit of the Tolna County Penitentiary Institute \(Previous case: AJB-462/2022\)](#) [*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1152/2023. számú ügyben a Tolna Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (Előzmény ügy: AJB-462/2022.)*], Article 2.6.

really know what was happening to him during the transfer to the hospital, because he could not communicate with the prison staff.¹⁹⁷

In all the aforementioned reports, the NPM called for the prison commanders to take measures to improve communication between foreign detainees and staff members, as it is in a breach with the prohibition of inhuman and degrading treatment, if foreign detainees are unable to communicate meaningfully with staff members and/or fellow inmates.

13. Special measures relating to detention of children and young adults/juvenile detention regime

a. Age groups

According to the Hungarian Criminal Code (Articles 105–106), a juvenile is a person who is 12 years of age or older, but under 18 years of age at the time of the offence, can stay in juvenile prison until they are 21 years old.

The primary aim of the punishment or measure imposed on a juvenile is to ensure that the juvenile develops in the right direction and becomes a useful member of society, and in this respect the choice of measure or punishment must be made with a view to educating and protecting the juvenile. A punishment should be imposed on a juvenile when the use of a measure is not appropriate. A person who is under 14 years of age at the time of the offence shall be subject to only one measure. A juvenile shall only be subject to a measure involving deprivation of liberty or a sentence involving deprivation of liberty if the purpose of the measure or sentence cannot be achieved by other means.¹⁹⁸

b. General measures for detained children and young adults

On the basis of Act CCXL of 2013 on the execution of penalties, measures, certain coercive measures and misdemeanour detention, Article 192, the assistance of the guardianship authorities and other public bodies, NGOs, educational institutions, the probation officer and the relatives of the juvenile shall be sought to help the juvenile's integration into society. During the execution of the custodial sentence, special attention shall be paid to the juvenile's education, personality development and physical development, enforcement of compulsory education and the possibility of access to a first profession. The juvenile shall be given medication and medical aids free of charge. It shall be ensured that the

¹⁹⁷ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT from the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1053/2023 in relation to the visit to the Budapest Prison and Detention Centre as the central site for the implementation of the round-up](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1053/2023. számú ügyben a Budapesti Fegyház és Börtön mint a körszállítás végrehajtásának központi helyszíne látogatásával összefüggésben*), Article 2.3.5.

¹⁹⁸ Hungary, Act C of 2012 on the Criminal Code ([2012. évi C. törvény a Büntető Törvénykönyvről](#)), Chapter XI.

juvenile is enrolled in vocational training or apprenticeship and is allowed to pursue secondary education. A juvenile shall be obliged to continue his compulsory education until they reach the age specified by a special law. The juvenile may be rewarded with a commendation certificate. Solitary confinement may extend to 10 days in juvenile prisons and to five days in juvenile detention centres. A juvenile sentenced to solitary confinement may not be excluded from school lessons or reintegration programmes. The penitentiary institution shall request a pedagogical opinion on the juvenile offender from the educational institution or child protection institution in order to get to know the juvenile, in particular with regard to data on behaviour, diligence, areas requiring improvement and family background. The data may be used for the purposes of the individual development plan, protection of the juvenile and risk assessment. The correctional institution may develop its educational programme and the juvenile's individual development plan in cooperation with the professional experience of correctional institutions under the supervision of the Minister responsible for the protection of children and youth, in order to promote the juvenile's social integration, to alleviate their integration problems, to settle their mental state, to improve their education and professional qualifications, to adopt basic moral standards and to prepare them for a healthy lifestyle.

Prison Act Article 194 refers to the request of the juvenile or their legal representative and with the permission of the penitentiary institution, that the juvenile may participate in family consultations every three months, which is a form of informal contact in the penitentiary institution. Family consultations may be attended by the parent and by the person who is entitled to have contact with the juvenile under the Hungarian Civil Code, unless the court or the guardianship authority has restricted or withdrawn the right of contact. The juvenile may, at the option of the correctional institution, participate in family therapy sessions at their own request or at the request of the legal representative and with the permission of the correctional institution. Parents may not attend family therapy sessions if they are not entitled to contact. The number of family therapy sessions shall be determined by therapeutic needs. Participation of a juvenile in a family therapy session may exceptionally be allowed outside the detention facility. Family counselling and family therapy sessions are not considered to be visiting visits and may be permitted among inmates. On application by a juvenile, a juvenile may be placed with their sibling of the same sex, if it is in the best interests of both juveniles and the possibility of doing so can be provided in the penitentiary institution. Co-housing shall take into account the offenders' criminal record and the offence committed, the possible impact of co-housing on the order and security of detention, the juvenile's vulnerability, mental and emotional development. The same Act, Article 196 says that a juvenile may maintain contact with the teacher of their educational establishment for the purpose of their study and examination obligations and personal development. In the case of a juvenile who has started their studies, the penitentiary institution shall, at their request

and in order to fulfil their obligation to take examinations, arrange for their production, if the head of the educational institution and the commander of the penitentiary institution jointly agree. In addition, with the permission of the commander of the penitentiary institution, a juvenile may also establish a student relationship with an educational institution outside the penitentiary institution, whereby they shall fulfil their obligations to attend school and take examinations in the educational institution.

In granting such authorisation, account shall be taken in particular of the offence committed, the security risks, the juvenile's previous conduct, academic record and diligence. The furnishings of the accommodation and cells for juvenile offenders in the penitentiary shall be designed, to the extent possible for the penitentiary, taking into account the juvenile's behaviour, academic record and diligence. Academic achievement and diligence shall be assessed on the basis of individual ability. The assessment in accordance with the criteria shall be carried out by the staff of the penitentiary and the reintegration specialist responsible for the juvenile's education. If the prison institute does not have a contractual relationship with a primary school, the school in the area of the prison institute's jurisdiction shall provide basic education on the basis of a cooperation agreement with the prison institute, on the basis of an individual work schedule. In addition, the conditions for the application of the juvenile's reintegration detention shall be: attendance at family therapy or family counselling at least once during the period of imprisonment, or the consent of the legal representative to the installation of an electronic remote monitoring device and a declaration of acceptance of the accommodation and a declaration of the accompanying of the detainee.

A juvenile may independently lodge a complaint, request or make a statement on matters relating to their detention without the consent or subsequent approval of their legal representative. The provisions shall not apply to the exercise of the juvenile's right of self-determination in health matters. A juvenile shall be obliged to contribute to the costs of his maintenance only if they are in employment or have regular financial support. The provisions shall also apply in the case of production, transport and other services provided on a cost-reimbursement basis. If a juvenile under the age of eighteen has no money in escrow, the penitentiary shall ensure their transport without any charge for the purpose of visiting a close relative of a seriously ill person or attending the funeral of a close relative or paying their respects. A juvenile under the age of 18 shall not be allowed to possess tobacco products, nor shall they be allowed to smoke even with the consent of their legal representative. Violation of the obligation shall not constitute a disciplinary offence.

In the framework of care activities, the probation officer may organise family or group decision-making meetings to help the juvenile to develop their life plan after release and to support its implementation, if the host environment is receptive to this, in order to ensure their effective reintegration into society. The meeting may be organised outside the detention facility. The juvenile must be produced or may be

granted an exceptional leave of absence, with or without supervision, for a period not exceeding three days, to attend a meeting outside the detention facility. 60 days before the release of a juvenile under the age of 18, the legal representative shall be notified. Upon release, the juvenile shall be handed over to the parent or guardian exercising parental authority at the place of detention. Subject to the written consent of the legal guardian, the juvenile may leave the detention facility unaccompanied. If the measures taken to return the juvenile to their parent or guardian do not lead to a successful return, the penitentiary institution shall contact the guardianship authority in order to take the necessary child protection measures. If the legal representative of the juvenile has not appeared for the purpose of taking charge and has not consented to the unaccompanied departure of the juvenile, the penitentiary institution shall without delay contact the body authorised by the Act on the Protection of Children to take charge of the juvenile on a temporary basis and shall arrange for the juvenile to be transferred to the place of care indicated in the decision on temporary placement. If, upon the release of the juvenile from custody, the child protection guardian has not appeared to take charge of the juvenile, the penitentiary institution shall immediately notify the regional child protection service operating the child protection guardian of the juvenile in order to arrange for the juvenile's transportation to the place of care.

Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine in Articles 148–162 provides that the competent guardianship authority of the place of residence, the parent or other legal representative of the juvenile, the guardian in the case of guardianship, the competent regional child protection service in the case of a juvenile in care and the competent regional child protection service in the case of a juvenile in custody shall be notified within three days of the admission and release of the juvenile. The rules governing the living conditions of juveniles, the internal organisation of their accommodation unit, their movements within the prison and the amount that may be spent on personal needs, subject to their category classification, shall be determined by the commander of the prison within the limits of the law. These rules shall take into account the specific needs of the age groups concerned and shall endeavour to avoid any harmful effects on the juveniles. Voluntary youth organisations may operate under supervision. The placement of the juvenile in a reception unit is compulsory, and an environmental assessment of the juvenile must be obtained from the probation officer. The request for a pedagogical opinion from an educational or child protection institution may be waived if the period of imprisonment is 30 days or less.

If no more than three months have elapsed between the juvenile's release and the execution of the new custodial sentence, or if the juvenile is serving consecutive sentences, the environmental report and the educational report may be waived. The juvenile offender shall be allowed to bathe in warm water every day. Juvenile offenders should be provided with free sports facilities at least once a week. Therapeutic

sessions should be offered to help them give up smoking, provided by a qualified professional. At the request of the legal representative, the detention centre shall provide information on the juvenile's development and behaviour. The information may be provided in response to a written request or orally during a visit, a parent-teacher conference, a family consultation or a family therapy session. Parents' meetings may be held in prison and contact persons authorised by the prison may be invited to events organised for juveniles. The prison commander is entitled to award the juvenile with a certificate of commendation, which may also be presented to a group of prisoners. A prisoner under the age of 18 may be released on leave or furlough if they are accompanied and returned by their legal representative, an adult relative, the probation officer or a representative of a social organisation or religious community with legal personality which has concluded a cooperation agreement with the Prison Service. In order to check whether the request for family counselling is justified, the police institution may contact the competent family assistance or child welfare service in the area. The family counselling may be authorised by the commander of the detention facility, who shall determine the place where the family counselling is to take place and the precise arrangements for its conduct. The counselling may take place under supervision for a maximum of 90 minutes.

Participation in a family therapy session may also be initiated by the detention centre, if there is a deterioration in the relationship between the juvenile and the relative who has contact with him. In this case, the detention centre shall obtain a statement from the juvenile's legal representative or the relative who has contact with the juvenile that they wish to participate. The decision to approve the family therapy session is taken by the commander on the basis of a proposal from the BIO. Family therapy sessions shall be conducted by a person qualified as a psychologist. The session leader determines the number and frequency of sessions they deem necessary and may, with the approval of the BFI commander, propose the involvement of external persons. Exceptionally, family therapy sessions between prisoners may be authorised if the probable date of release of the persons concerned is less than six months away. If the juvenile requests family counselling or family therapy sessions at the same time as the request for release with a view to reintegration, the possibility of participation shall be provided. In the case of a juvenile who has started to study, the detention centre shall be responsible for the organised production of the juvenile for the purpose of the examination obligation provided for in Article 197 of the Criminal Code. The juvenile may also be placed in a study relationship with an educational institution outside the prison with the permission of the commander of the prison institute. If the prisoner reaches the age of 21 before or during the execution of the custodial sentence, the penal institution shall execute the custodial sentence to a certain extent. If the juvenile has been placed in a correctional facility, the correctional facility shall transfer the juvenile to the correctional facility on the day of release from custody or release on parole or termination of the detention, or shall transfer the

juvenile to the correctional facility on a previously agreed date. If the juvenile has not reached the age of 18 at the time of their expected release, the prison shall inform the probation officer responsible for the juvenile's place of residence in order to take measures relating to probation supervision. If the juvenile does not wish to reside in their former place of residence and informs the penitentiary establishment in writing, the penitentiary establishment shall also inform the territorial probation officer responsible for the place of residence. If the juvenile has been placed in a temporary or permanent foster home before the start of the custodial sentence, the territorial child protection service shall also be informed before the juvenile is released in order to facilitate the placement of the juvenile. In this case, the juvenile shall be handed over on release to the person designated by the regional child protection service. Prior to the release of a juvenile under the age of 18, the legal representative shall be informed in the notification of release that if they do not make a statement within the prescribed period or if they do not come to collect the juvenile in spite of their statement, the commander of the penal institution shall issue a decision on the transfer of the juvenile to a child protection institution, which shall be enforceable without appeal in accordance with the Act on Child Protection and Guardianship Administration.¹⁹⁹

c. Separation from adults

On the basis of Act CCXL of 2013 on the execution of penalties, measures, certain coercive measures and misdemeanour detention, Article 192, juvenile imprisonment shall be executed in a separate penitentiary or in a separate part of a penitentiary. Adult prisoners may be placed in a juvenile correctional institution only in the interests of the operation of the correctional institution. If the release of a juvenile for the purpose of conducting a procedural act entails placement in a police detention centre, the competent prosecutor's office may authorise it for 30 days. In this case, juvenile offenders shall be kept separate from adult detainees. No appeal may be lodged against the decision. A legal representative appearing for the purpose of participating in a procedural act to be conducted with the participation of a juvenile shall be allowed to enter the detention facility.

d. NPM assessment

The NPM found no irregularities in the separation of juvenile and adult prisoners during the reference period.

For problems with placement, see the findings referred to in point 1.

As regards the placement and care of children, see point 11.

¹⁹⁹ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)].

Daily bathing facilities for women and juveniles were provided in all the establishments examined.

The Act C of 2012 on the Criminal Code (hereinafter: Criminal Code) considers youth in conflict with the law **between the ages of 12 and 18 to be juveniles**.²⁰⁰ Special provisions for juvenile offenders with regard to their age and the primacy of the purpose, correctional rules and reintegration in their sanctions are contained by the Criminal Code, the Code of Criminal Procedure and the Prison Act.²⁰¹ Custodial sanctions for juvenile offenders can be carried out either in reformatory institutions or in juvenile prisons, the former being a protective-preventive measure and the latter enforcing the penalty of imprisonment with special rules for juveniles, as opposed to imprisonment for adults. Between the ages of 12 and 14, the court can only use placement in a reformatory as a custodial sanction; between the ages of 14 and 18, the court shall order the child in conflict with the law to be placed in a reformatory if their effective education so requires, as assessed and decided by the court at its discretion.²⁰² Juveniles may be detained in both prisons and reformatories until the age of 21. However, if the defendant has reached the age of 20 at the time of the court's final decision, they may not be placed in a reformatory. Aftercare placement should be provided at the written request of the juvenile in reformatories up to the age of 24.²⁰³ Aftercare placement shall be available for those who cannot return to their families and have not obtained housing and a stable living, or for those who wish to complete their studies within the framework of the educational or training programme of the reformatory institution.²⁰⁴

Children in conflict with the law who are placed in **reformatories are completely separated from adult offenders**. There are five reformatories in Hungary. They are multidisciplinary institutions at the intersection of education, child welfare and corrections, focusing on the application of child protection and crime prevention measure rather than on the penal element of imposing a sanction. Thus, reformatories are not under the command of the penitentiary administration (NPA), but are organised within the state welfare system for child protection. Reformatories are regulated and supervised by the minister responsible for the protection of children and young people.²⁰⁵ The methodological supervision of the activities of reformatories is carried out by the Directorate-General for Social Affairs and Child Protection.²⁰⁶ In addition, Decree 1/2015 (I. 14.) of the Minister of Human Capacities on the Operation

²⁰⁰ Hungary, Act C of 2012 on the Criminal Code ([2012. évi C. törvény a Büntető Törvénykönyvről](#)), Article 105 (1).

²⁰¹ Lévay M. (2016), '[Youth Justice in Hungary During the 20th and 21st Centuries](#)', in: *Oxford Handbook Topics in Criminology and Criminal Justice*, 2 June 2016.

²⁰² Hungary, Act C of 2012 on the Criminal Code ([2012. évi C. törvény a Büntető Törvénykönyvről](#)), Articles 108 and 120(1).

²⁰³ Hungary, Act XXXI of 1997 on the protection of children and guardianship administration ([1997. évi XXXI. törvény a gyermekek védelméről és a gyámügyi igazgatásról](#)) (hereinafter: Child Protection Act), Article 66/Q (1)

²⁰⁴ Hungary, [Prison Act](#), Article 384.

²⁰⁵ Hungary, [Prison Act](#), Article 345 (1).

²⁰⁶ Hungary, Government Decree No. 316/2012 (XI. 13.) on the General Directorate of Social Affairs and Child Protection [[316/2012. \(XI. 13.\) Korm. rendelet a Szociális és Gyermekvédelmi Főigazgatóságról](#)], Article 4 (2)(a) and Annex 1.

of Reformatories stipulates that reformatories shall provide full sustenance, including care, nurture, supervision, education, training and work as a service to the juveniles placed there.²⁰⁷

Juvenile prisons operate under special rules within the penitentiary system under the command of the NPA. **Juveniles shall be held** either in a **separate penitentiary** or in a separate part of an adult penitentiary; adult prisoners may be placed in juvenile prisons only for the purposes of the operation of the institution.²⁰⁸ At the end of October, 148 juveniles were held in Hungarian prisons.²⁰⁹ According to its website, the NPA operates three penitentiaries that can accommodate juveniles, all of which share their premises with an adult prison.²¹⁰ Regarding **activities, education and work training**, there is a significant difference between juvenile prisons and reformatories. In prisons, educational and reintegration activities are carried out at a very low intensity, as shown by Figure 2, which is also confirmed by the latest NPM report with respect to the Tököl Juvenile Prison.²¹¹ While staff turnover and overtime are problems in reformatories, several NPM reports attest to the good quality of education, work training and meaningful leisure activities that children in conflict with the law receive there.²¹² At the same time according to the NPM's reports,²¹³ reformatories involve the vast majority of resident children in their educational and rehabilitative programmes. Material conditions seem more favourable there, for example occupancy rates are significantly lower than in penitentiaries. In terms of

²⁰⁷ Hungary, [Child Protection Act](#), Article 15 (5); Ministerial Decree No. 1/2015 (I. 14.) on the Regulations of Correctional Institutions [[1/2015. \(I. 14.\) EMMI rendelet a javítóintézetek rendtartásáról](#)], Article 3 (1); [Prison Act](#), Article 350 (5)(6).

²⁰⁸ Hungary, [Prison Act](#), Article 192 (2).

²⁰⁹ Response no. 30500/5563-7/2023 issued by the NPA to the HHC's FOI request on 4 December 2023.

²¹⁰ See the [institutes](#) on the NPA's webpage.

²¹¹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2017), [REPORT of the Commissioner for Fundamental Rights as OPCAT national preventive mechanism in case AJB-685/2017](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-685/2017. számú ügyben*), pp. 15–21.

²¹² See for example: Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT from the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1356/2023 in connection with the visit to the Rákospalota Correctional Institute and Central Special Children's Home](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1356/2023. számú ügyben a Rákospalotai Javítóintézet és Központi Speciális Gyermekotthon látogatásával összefüggésben*), pp. 1, 15–18, 20–23; Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2020), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case No AJB-2799/2020 in connection with the visit of the EMMI to the Aszód Correctional Institute, Primary School, Vocational School and Special Vocational School](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-2799/2020. számú ügyben az EMMI Aszódi Javítóintézet, Általános Iskola, Szakiskola és Speciális Szakiskola látogatásával összefüggésben*), pp. 10–16; Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2020), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-2569/2020 in connection with the visit of the EMMI's Correctional Institute in Nagykanizsa](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-2569/2020. számú ügyben az EMMI Nagykanizsai Javítóintézete látogatásával összefüggésben*), pp. 8–9, 13–14.

²¹³ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT from the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1356/2023 in connection with the visit to the Rákospalota Correctional Institute and Central Special Children's Home](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1356/2023. számú ügyben a Rákospalotai Javítóintézet és Központi Speciális Gyermekotthon látogatásával összefüggésben*), pp. 1, 15–18, 20–23; Report No. [AJB-755/2023](#) pp. 19–21; Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2020), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case No AJB-2799/2020 in connection with the visit of the EMMI to the Aszód Correctional Institute, Primary School, Vocational School and Special Vocational School](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-2799/2020. számú ügyben az EMMI Aszódi Javítóintézet, Általános Iskola, Szakiskola és Speciális Szakiskola látogatásával összefüggésben*), pp. 10–16.

detention conditions, the NPM considered it a rather positive trend that the number of juvenile offenders in prisons has been radically reduced.²¹⁴

14. Special measures to protect detainees with disabilities or serious medical conditions

a. Care in detention

With regard to the mentally ill, Act No. CCXL of 2013 on the Execution of penalties, measures, certain coercive measures and misdemeanour detention provides details, as the provisions of the law on the rights, protection and enforcement of the rights of persons sentenced to imprisonment shall apply to the person subject to compulsory treatment because of mental illness, unless the provisions are incompatible with the purpose and nature of compulsory treatment or unless otherwise provided by law. The general provisions of the Healthcare Act and the provisions on the rights of psychiatric patients shall apply to the rights of the patient in connection with his treatment, with the exceptions provided for in this Act. During compulsory treatment, the patient shall receive professional care in accordance with the current state of medical knowledge in order to prevent deterioration of their condition and to restore their health as soon as possible.²¹⁵ The cost of compulsory treatment is covered by the state. Compulsory treatment must be carried out at the IMEI. If the patient is at liberty when the compulsory treatment is ordered, the court will arrange for the patient to be transferred to the IMEI via the National Ambulance Service. If the patient resists, the police may be called in to assist with the transfer. Upon admission, the IMEI will verify the patient's identity. If there is any doubt as to the identity of the person concerned, IMEI will contact the competent police authority in the place where the person resides in order to establish their identity. At the time of admission, the patient must be informed of their rights and obligations in relation to their state of health. While undergoing compulsory medical treatment, the patient must not be in possession of any object the possession of which could endanger public safety or violate the law, or which could endanger the order and security of the IMEI, its maintenance and control, their life or the life or physical integrity of others.²¹⁶

The IMEI Director General's doctor will immediately propose to the court that the compulsory treatment be terminated if the patient's condition so warrants. The court shall terminate the compulsory

²¹⁴ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT from the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1356/2023 in connection with the visit to the Rákospalota Correctional Institute and Central Special Children's Home](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1356/2023. számú ügyben a Rákospalotai Javítóintézet és Központi Speciális Gyermekotthon látogatásával összefüggésben*), p. 10.

²¹⁵ Hungary, [Prison Act](#), Chapter XXVI, Article 326–328.

²¹⁶ Hungary, [Prison Act](#), Chapter XXVI.

treatment if it finds that it is no longer necessary. Compulsory treatment may not be suspended. During the period of compulsory treatment, the patient must be provided with custody and supervision, accommodation necessary for their specialised care, material and other medical care, protection of their legal interests and conditions for their lifelong residence in accordance with the IMEI regime. The Medical Officer to the Director-General of the IMEI shall ensure that the patient is properly guarded and supervised. The patient may also be in the custody of another penitentiary institution. If the patient needs medical care because of a health impairment or illness other than the reason for which the measure was ordered, the care shall be provided primarily in the prison healthcare facility. If the prison healthcare facility does not have the necessary conditions for the treatment of the patient, the medical facility providing the necessary specialised care shall be used. The medical officer of the IMEI Director-General shall be responsible for the custody or supervision of the patient transferred to the medical establishment. Custody and supervision must be carried out in civilian clothes or hospital protective clothing. If the patient is permanently and totally incapable of managing their own affairs, or if their capacity to manage their own affairs is permanently or periodically severely reduced and they are not under guardianship, the IMEI Director-General's doctor shall initiate a guardianship procedure through the guardianship authorities. If there is no person who can legally represent a patient who has been placed under guardianship due to total or partial incapacity, or if the person is unknown or for any reason unable to perform this task, the Medical Director of the IMEI Director-General will immediately take the necessary measures to ensure the legal representation of the patient. An electronic monitoring device may be placed in the IMEI ward to monitor a patient who has previously attempted suicide or committed an act against their own or another's physical integrity, with a minimum of inconvenience to patients not directly affected by the monitoring order. When a patient is subjected to a coercive measure, they shall be placed in a ward where their condition can be monitored by an electronic monitoring device.²¹⁷

b. Continuity of care

According to Act CCXL of 2013 on the execution of penalties, measures, certain coercive measures and misdemeanour detention, the purpose of aftercare is to help the person released from custody to reintegrate into society. Aftercare can last up to one year. Aftercare is provided at the request of the offender. The released person may request assistance and support, in particular with regard to employment, resettlement, accommodation, continuation of studies, medical care and treatment. Aftercare shall be provided by the probation officer in cooperation with local authorities, employers,

²¹⁷ Hungary, [Prison Act](#), Chapter XXVI.

NGOs, religious communities and other voluntary organisations engaged in charitable activities to promote the prisoner's integration into society. In order to facilitate the prisoner's employment and housing after release, the probation officer shall make an assessment of the employers, NGOs and religious communities in the prisoner's host community who are willing to provide employment and housing for the prisoner. If the measures taken by the designated organisations to provide employment and accommodation for the released prisoner have not been successful, the State shall provide public employment and accommodation.²¹⁸

c. Reasonable accommodation and accessibility

See answer b.

d. NPM assessment

Generally speaking, most prisons are not barrier-free, so not all are suitable for people with physical disabilities. In addition, all the prisons surveyed are equipped with camera locks to prevent suicidal incidents.

The priority given to special groups during the epidemic period was already applied to the quarantine at the time of admission. For women, juveniles, people over 60 years old, the chronically ill, smokers, the obese (BMI > 30), the homeless, those sentenced to serve a sentence, an upper respiratory secretion test was to be carried out during the admission of the prisoner, if the prisoner agreed, and repeated 4 days later. As the isolation could be terminated after the second negative result was received if the detainees were asymptomatic, they had to be placed separately from other detainees in observation isolation. If there was a documented failure to consent to sampling, the 14-day isolation was to be applied.²¹⁹

In relation to vaccination of prisoners, the World Health Organization (WHO), in its interim recommendation on prevention and treatment in Covid-19, prisons and other places of detention, as amended on 8 February 2021, pointed out that the Mandela Rules do not consider the special needs of vulnerable groups as a violation of the prohibition of discrimination between prisoners,²²⁰ and that health care for prisoners should be provided without discrimination on the basis of their legal status and

²¹⁸ Hungary, [Prison Act](#).

²¹⁹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1190/2021 in connection with the visit of the Borsod-Abaúj-Zemplén County Penitentiary Institute](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1190/2021. számú ügyben a Borsod-Abaúj-Zemplén Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben), p. 11.

²²⁰ Mandela Rules Point 2.

at a level accessible to the rest of society. Accordingly, the NPM also considered it necessary to highlight in the context of the visit the need to ensure that detainees are vaccinated against Covid-19, with priority given to those who are particularly vulnerable, elderly or chronically ill.²²¹

The NPM did not find any irregularities in the accommodation of elderly prisoners during the visit of the Baranya County Prison.²²² At the time of the visit, three prisoners over 65 years of age were housed at the Institute. All three were on medication, requiring extra attention (suicide risk), and were accommodated in lower beds. Detainees who were elderly (over 65) or otherwise at risk required special attention. At the National Prison in State Amnesty, it was also the practice to keep a register of elderly and chronically ill prisoners in the prison and to monitor them closely. The elderly prisoners were not moved from their usual places, because experience had shown that when many elderly people are housed together, there is more conflict, and that if there are young people around, they can help them. According to the information, about 3-4% of the detainees are over 60 years old.²²³

At the Sopronkőhida Prison and Detention Centre, chronic patients were examined daily/weekly/monthly depending on their condition and when their medication was prescribed.²²⁴

In the Hajdú-Bihar County Prison²²⁵ detainees with chronic illnesses over 65 years of age were kept in isolation during the epidemic period. In order to prevent suicidal acts by prisoners, 1 camera cell per level has been installed. In the psychologist's experience, many detainees requested to meet with her. She spoke to the vulnerable detainees twice a month. The detainees could also indicate on a request form and in the KIOSZK system if they wanted to contact her. In case of emergency, the psychologist would see the detainee immediately on the recommendation of the probation officer. According to the

²²¹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1190/2021 in connection with the visit of the Borsod-Abaúj-Zemplén County Penitentiary Institute](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1190/2021. számú ügyben a Borsod-Abaúj-Zemplén Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben), pp. 14–15.

²²² Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2022), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case No AJB-443/2022 in connection with the visit of the Baranya County Penitentiary Institute](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-443/2022. számú ügyben a Baranya Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben), p. 9.

²²³ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1224/2023 in connection with the visit of the National Penitentiary Institute of Állampuszta](#) (Alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1224/2023. számú ügyben az Állampusztai Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben), p. 12.

²²⁴ Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-750/2021 in connection with the visit to Sopronkőhida Prison and Detention Centre \(Previous case: AJB-2727/2020\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-750/2021. számú ügyben a Sopronkőhidai Fegyház és Börtön látogatásával összefüggésben (Előzmény ügy: AJB-2727/2020)], p. 9.

²²⁵ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2022), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case No AJB-464/2022 in connection with the visit of the Hajdú-Bihar County Penitentiary Institute \(Previous case: AJB-4385/2021\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-464/2022. számú ügyben a Hajdú-Bihar Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (Előzmény ügy: AJB-4385/2021)], p. 8.

detainees interviewed by the visiting team, the psychologist was available, but most of them did not request a consultation. The Institute paid special attention to vulnerable groups of detainees. Detainees with a lower IQ were given more attention by the psychologist, who prepared them for the behaviour in the cells. In her experience, it is rare for prisoners to abuse each other in the Institute, as they do not yet have a final conviction and the court's decision is heavily weighted on the prisoner's behaviour. Female detainees were also considered vulnerable due to their small number. There were few women's cells in the Institute, so the transfer of difficult-to-handle female prisoners could be a problem.

In the Tolna County Penitentiary²²⁶ prisoners over 65 years and chronic patients were given priority for vaccination. A psychologist with a degree in psychology worked at the Institute, who also carried out duties in Kaposvár and Pálhalma. On admission, he classified detainees according to a predictive measurement instrument (PME) to determine whether they were considered at risk. During the interview, he assessed whether the detainee was under psychiatric treatment or whether the patient was at risk of suicide. If a detainee was found to be at risk of suicidal ideation, he was taken to IMEI with a target transport. A list of detainees at risk for suicidal and mental imbalance (substance abuser, self-harm, long-term imprisonment) was kept. Detainees with suicidal tendencies were interviewed weekly and those at risk of mental imbalance were interviewed monthly.

The Vác Prison and Detention Centre²²⁷ paid particular attention to preventing self-harm by prisoners. The detailed rules on prevention are set out in the Command Instruction "Prevention of crises, suicide attempts and self-harm in prisoners"²²⁸ and a methodological guide for the prevention of suicidal acts by prisoners. Under Command Order No. 35/2020, staff members are required to pay particular attention to the prevention and management of conditions and events (crisis situations) that significantly exceed the psychological capacity of the detainees. Efforts shall be made to organise personal development, therapeutic or rehabilitation programmes, crisis intervention or individual therapy for those at risk. Attempts should be made to screen out prisoners who are prone to self-harm or suicidal behaviour at the reception stage. Particular attention should be paid to prisoners with a history of psychiatric treatment, those with mental health problems and in crisis, first offenders and prisoners serving life sentences. During the medical admission, the doctor records in the prisoner's file

²²⁶ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1152/2023 in connection with the visit of the Tolna County Penitentiary Institute \(Previous case: AJB-462/2022\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1152/2023. számú ügyben a Tolna Vármegyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (Előzmény ügy: AJB-462/2022.)], p. 8, pp. 13–14.

²²⁷ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1028/2023 in relation to the visit to the Vác Prison and Detention Centre](#) (Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1028/2023. számú ügyben a Váci Fegyház és Börtön látogatásával összefüggésben), pp. 16–18.

²²⁸ See Joint Action No 35/2020 of the Commandant of the Vác Prison and the Managing Director of Duna-Mix Ltd. (Hereinafter 'Measure 35/2020'.)

details of the prisoner's previous suicide incident, psychiatric illness and history. The Institute maintains a register of prisoners at risk, which includes prisoners at high risk of suicide, prisoners who self-harm, prisoners at high risk of psychoactive substance use, prisoners at high risk of abuse, prisoners unstable due to long sentences, and prisoners at risk for other reasons. Measure 35/2020 required the psychologist to provide an opinion on prisoners on the register, to provide psychological support to prisoners and to regularly monitor the mental state of prisoners. It is the duty of the reintegration officer to assess the detainees' state of mind on a daily basis during the lockdown. The security officer was required to check on detainees every 60 minutes during the day and every 30 minutes at night. Suicidal devices and materials had to be removed from the cells. According to General Report No. 3 of the CPT,²²⁹ suicide prevention is one of the tasks of the health service of the prison. A properly conducted admission procedure can identify persons at risk. Staff should be aware of signs of suicidal intent. According to point 59, anyone identified as being at risk of suicide shall be monitored for as long as necessary. According to the previous Ombudsman's inquiry, the prevention of self-harm by prisoners, which is a frequent occurrence, was discussed in sufficient detail in the Institute's current methodological guide. At the time of the visit, 31 prisoners were accommodated in the institute's therapeutic treatment unit in cells for 4-5 persons. Prisoners who had some kind of disability – mental or physical – or who needed psychiatric treatment were placed in this unit. These detainees have more difficulties in maintaining psychological balance and are more vulnerable than the majority of detainees. They have received more assistance for their reintegration, such as more frequent personal interviews and departure management training. In the context of therapeutic occupation, the prisoners folded envelopes and paper bags in their cells. In the drug prevention unit, there were two cells of 6 prisoners: one smoking and one non-smoking. At the time of the visit, 12 people were housed in the unit. The prisoners were provided with individual sessions and life skills advice by the reintegration officers. In both wards, detainees reported that they had more telephone contact time and the possibility to use Skype. Detainees were given disinfectant every day and masks were washed regularly. Prisoners were able to shower in hot water every day, and prisoners confirmed that they were working. The chaplain gave them the opportunity to practice their religion in individual sessions. A psychologist and a doctor were also available to the detainees. At the time of the visit, 8 people were accommodated in the APAC section. They were able to attend an ecumenical service prior to the outbreak of the coronavirus, but due to the virus threat, the service was cancelled and the Reformed pastor held an hour-long sermon on Mondays. A special feature of the circle before the Covid-19 period was that on the last Saturday of each month, the detainees could meet with their family members during a three-hour talk. Visitors could even bring food for the prisoners.

²²⁹ CPT/Inf(93)12 points 57–58.

A deep connection was established with the prisoners and their families, and the family members also received spiritual care. Skype was provided three times a month in the APAC ward. The 40 minutes of telephone use per week was extended by 15 minutes.

The NPM did not find any irregularities in the special wards in its report on the institute. The NPM considered it a positive practice that the Institute had reduced the number of group sessions, while at the same time more groups were started on demand. The psychologists tried to keep the group sessions for prisoners in the same cell, thus reducing the risk of infection. The psychologists continued to conduct personal interviews during the epidemic.

Mental health issues are primarily the responsibility of the psychologist, who provides support to prisoners in individual and group sessions. The CPT also stressed that suicide prevention is a topic which is also part of the tasks of the prison health service. Prisons should ensure that the issue is known throughout the institution and that appropriate measures are taken. Efforts should also be made to identify persons at risk when admitting prisoners. Anyone identified as being at risk of suicide should be closely monitored for as long as necessary.²³⁰ At the National Penitentiary Institute in Kiskunhalas²³¹ psychologists kept records of prisoners at risk and monitored the mood of these prisoners more frequently. The experience showed that most of the time the prisoners were only superficially maltreated. There was one completed suicide in the Institute in 2021. The staff analysed this unfortunate suicidal incident in their in-service training programme in order to identify suicidal vulnerability in the future. During the holidays (especially Christmas) and long weekends, the presence of a psychologist in person was ensured, and psychologists were on call and available in case of emergency. The right to life and human dignity of detainees (Article II of the Fundamental Law) is compromised if the identification and protection of detainees at risk of suicide is not sufficiently effective due to a lack of psychologists. For further findings on the provision of psychological and health care, see point 8.

Individualised **treatment and care of detainees with a variety of special needs** (including those with disabilities or addictions, those who are ostracised or otherwise unable to care for themselves) are undoubtedly desirable goals in the Hungarian prison system. In the experience of the HHC, however, translating these goals into practice often faces obstacles. One such example is that, according to the Petty Offence Act, disabled persons shall not be subjected to petty offence detention (such custodial

²³⁰ CPT/Inf(2011)28: General Report 21, points 57–59.

²³¹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT by the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1151/2023 in connection with the visit to the National Penitentiary Institute in Kiskunhalas \(Follow-up\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1151/2023. számú ügyben a Kiskunhalasi Országos Büntetés-végrehajtási Intézet látogatásával összefüggésben (utóvizsgálat)], p. 11.

measure is also executed in penitentiaries).²³² Even so, the HHC has several clients with disabilities who have been detained under the petty offence procedure without sufficient legal grounds. For example, the HHC's 20-year-old client with mental disabilities was repeatedly fined for littering and other similar petty offences, and since he did not pay the fines, he was subjected to unlawful petty offence detention for a total of 71 days. In the HHC's view, there is a legal hiatus in these cases: the court often transforms petty offence fines into confinement without the presence of the offender, and thus the information regarding their disability remains unknown. Regardless of the fact that the Petty Offence Act prohibits the application of petty offence confinement in the case of an offender with a disability, the Prison Act does not contain the apparent disability of the offender as a reason for refusing to admit a person to a penitentiary institution.²³³

In the HHC's view, the legal hiatus relating to petty offence detention and confinement of people with disabilities has still not been addressed by the legislator. As a result, (i) it remains common for the court to impose petty offence detention or to convert a previously imposed fine into detention without the personal presence of the offender, and (ii) the prison is still obliged to accommodate persons with disabilities who have been unlawfully sentenced to petty offence detention, as there is no legal mandate to refuse to accommodate such persons. Once a person with a disability who has been unlawfully detained had been admitted to the penitentiary, releasing them is typically a time-consuming and labour-intensive process for bureaucratic reasons, even for a competent lawyer.²³⁴

The Forensic Observation and Mental Institution (IMEI) where **detainees with severe psychosocial disabilities** are held cannot provide a complex therapeutic approach because the current prison system employs an extremely security-centred approach that overrides all other considerations.²³⁵ Detainees with psychosocial disabilities are administered pharmacotherapy, but other therapeutic activities in the institution are severely restricted. For example, in the case of a client of the HHC, IMEI submitted in a court case documentation describing three months of "treatment" the client had received in the institution. The documentation shows that besides medication and a weekly conversation with a psychologist, no therapeutic activities were offered to the client.

²³² Hungary, Act II of 2012 on Petty Offence, the Petty Offence Procedure and the Petty Offence Registry ([2012. évi II. törvény a szabálysértésekről, a szabálysértési eljárásról és a szabálysértési nyilvántartási rendszerről](#)) (hereinafter: Petty Offence Act), Article 10 (a).

²³³ Hungary, [Prison Act](#), Article 90.

²³⁴ It is also worth noting that in such case, turning to the Commissioner for Fundamental Rights does not appear to be effective either. A detainee who has been held in petty offence detention despite their disability, has yet to receive a response since four years and four months for their complaint from the Commissioner for Fundamental Rights. See more here: Hungary, HHC, [Válaszolt-e Kozma Ákos](#) (Has Ákos Kozma replied?).

²³⁵ HHC (2022), [Communication from the Hungarian Helsinki Committee concerning the cases of ISTVAN GABOR KOVACS and VARGA AND OTHERS v. Hungary](#), 22 November 2022, pp. 13–15.

The NPM conducted its last visit to the IMEI in 2016,²³⁶ and they had several serious concerns regarding the staff shortage and overcrowding. According to the NPM's report at the time of their visit, 230 patients were placed in IMEI,²³⁷ while the total number of staff was 178.²³⁸ Since then, the staffing situation has become even worse. By August 2022, the number of detainees had increased to around 270,²³⁹ while the total number of staff had decreased to 158.²⁴⁰ The increase in the number of detainees placed in the institution raised serious concerns of overcrowding. In 2016, the NPM reported that rooms and cells were, in general, large and overcrowded, while in fact, the number of detainees was significantly lower (15%) than in 2022, while the number of available places remained the same, at 311.²⁴¹

Finally, after seven years without a monitoring visit, the IMEI has received the CPT's monitoring delegation in May 2023.²⁴² On 5 December 2023 the NPA reported on its website that the IMEI organised a professional conference to summarise the results of their work towards increasing the number of terminations of compulsory treatment.²⁴³

15. Specific measures to protect detainees with special needs or other vulnerabilities

a. Protection of LGBTI detainees

There is no specific provision for LGBTI prisoners in the Hungarian prison system and legislation. The Hungarian Prison Service runs a special psychosocial unit for general vulnerable prisoners. See answer c.

b. Protection of trans detainees

Hungary does not have any trans detainees and no regulation about them. For any other vulnerable detainees, see answer c.

²³⁶ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2017), [REPORT of the Commissioner for Fundamental Rights as OPCAT national preventive mechanism in case AJB-766/2017](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-766/2017. számú ügyben*) and its [Executive Summary](#) in English.

²³⁷ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2017), [REPORT of the Commissioner for Fundamental Rights as OPCAT national preventive mechanism in case AJB-766/2017](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-766/2017. számú ügyben*), p. 12.

²³⁸ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2017), [REPORT of the Commissioner for Fundamental Rights as OPCAT national preventive mechanism in case AJB-766/2017](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-766/2017. számú ügyben*), p. 21–22.

²³⁹ Source: Response no. 30500/7297-10/2022 issued by the NPA to the HHC's FOI request on 29 August 2022.

²⁴⁰ Source: Response no. 30500/7902-/2022 issued by the NPA to Borbála Ivány's FOI request on 26 September 2022.

²⁴¹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2017), [REPORT of the Commissioner for Fundamental Rights as OPCAT national preventive mechanism in case AJB-766/2017](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-766/2017. számú ügyben*), p. 7, and [IMEI's Deed of Operation and Organisation](#), p. 4.

²⁴² Council of Europe (2023), [Council of Europe anti-torture Committee \(CPT\) visits Hungary](#), 26 May 2023.

²⁴³ Hungary, NPA (2023), [Évzáró konferencia az IMEI-ben](#) (*End of year conference at the IMEI*), 5 December 2023.

c. Protection of other vulnerable detainees

According to Prison Act and Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine in Hungarian prisons the prisoner may be placed in a psychosocial unit on the basis of his personal circumstances; or if, because of the nature of the offence committed or his other vulnerability, his safe custody can only be ensured by placement in such a unit. Placement in a psychosocial unit may be initiated upon request or ex officio. A prisoner may be transferred from the psychosocial unit if fails to comply with the conditions of the rehabilitation programme, commits a serious breach of discipline; or the conditions for his or her placement are no longer fulfilled.²⁴⁴

d. NPM assessment

The NPM's reports did not identify any shortcomings in this area during the reporting period, but during its visits the NPM found that there were no internal guidelines on the treatment of LGBTQI persons in the institutions. In all cases, staff stated that they had not yet had any detainees who identified themselves as transgender or other LGBTQI and therefore required or needed special treatment. Otherwise, all facilities provided general access to a psychologist for detainees who felt vulnerable for any reason. For further details, see points 8 and 9.

Several special units operate within the Hungarian penitentiary system **to provide protection for detainees with special needs or those in vulnerable situations** and individual needs-based placement to detainees such as, among others, the first time offenders unit, the elderly detainees unit and the psycho-social unit. However, the number of inmates placed is significantly lower in comparison to the number of those who would require such specific placement.

Table 4 – No. of detainees placed in some special units on 31 October 2023²⁴⁵

Name of penitentiary	First-time offenders' unit	Elderly inmates' unit	Psycho-social unit
Állampusztá National Prison	47	-	44
Balassagyarmat Strict and Med. Regime Prison	2	-	-
Middle-Transdanubian National Prison	27	29	-
Győr-Moson-Sopron County Remand Prison	-	1	-

²⁴⁴ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 70 (1).

²⁴⁵ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 70 (1).

Bács-Kiskun County Remand Prison (Kecskemét)	-	-	-
Kalocsa Strict and Medium Regime Prison	-	20	-
Kiskunhalas National Prison	20	-	-
Márianosztra Strict and Medium Regime Prison	-	-	5
Borsod-Abaúj-Zemplén County Remand Prison	44	-	-
Budapest Strict and Medium Regime Prison	-	-	21
Pálhalma National Prison	50	-	88
Sátoraljaújhely Strict and Medium Regime Prison	-	6	-
Sopronkőhida Strict and Medium Regime Prison	-	-	30
Szeged Strict and Medium Regime Prison	-	-	14
Szombathely National Prison	27	47	-
Tököl National Prison	45	-	39
Tiszalök National Prison	-	-	14
Vác Strict and Medium Regime Prison	-	16	-
Veszprém County Remand Prison (Veszprém)	14	-	-
TOTAL	276	119	255

Academic literature widely accepts that the prevalence of mental disorders among prisoners is much higher than those in the general population: around 65% of the prison population may suffer from a personality disorder, and another 10% may be diagnosed with major depression.²⁴⁶ Taking this into account, the number of detainees placed in a Psycho-social unit (255) seems relatively low.

The same concern arises when it comes to first-time offenders and elderly detainees.²⁴⁷ As of 31 October 2023, 12% of first-time offenders were placed in a specialised unit adapted to their needs, and 13% of all 60+ year-old detainees were placed in a specialised unit for elderly detainees.²⁴⁸

There are no specific legal regulations concerning the **protection of LGBTI detainees**. In practice, however, they are often placed in a specific Psycho-social unit of the penitentiary institution, if such a placement is available. Placement in the psycho-social unit can be based on “personal circumstances” or if, owing to the nature of the offence committed by them or their vulnerability, the safety of their detention can only be ensured by placement in this unit.²⁴⁹ Placement in this unit may happen at the request of the detainee or ex officio.²⁵⁰ The psychosocial unit requires, as a rule of conduct, fairness

²⁴⁶ Völm, B. A., Clarke, M., Herrando, V. T., Seppänen, A. O., Gosek, P., Heitzman, J., and Bulten, E. (2020), ‘[European Psychiatric Association’s guidance on forensic psychiatry](#)’, *European Psychiatry*, Vol. 51, p. 65, section 3.4.3.

²⁴⁷ Paragraph 61 of Action Report, [DH-DD\(2023\)1213](#).

²⁴⁸ Source: Response no. 30500/4293/2023 issued by the NPA to the HHC’s FOI request on 4 September 2023.

²⁴⁹ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 70 (1).

²⁵⁰ Hungary, Ministerial Decree No. 16/2014 (XII. 19.) on the detailed rules for the enforcement of imprisonment, detention, provisional, detention and detention in lieu of a fine [[16/2014. \(XII. 19.\) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól](#)], Article 70 (2).

among prisoners by enforcing community aspects, and the constant monitoring of the community morale in order to maintain it.²⁵¹

16. Specific measures to address radicalisation in prisons

a. General measures to prevent radicalisation

There is no specific standard to prevent radicalisation in prisons in Hungary. According to the findings of the previous JUSTICE programme project 763538 - FAIR - JUST-AG-2016/JUST-AG-2016-03 "FAIR Fighting Against Inmates Radicalisation", launched on 9. October 2017, the infiltration of Islamic terrorists and recruitment within prison walls is not a common phenomenon in Hungary.²⁵² As part of the programme, the staff of Szeged Prison and Penitentiary also participated in a number of training courses.

b. Risk assessments

We did not receive any link, answer or explanation regarding this question from the Hungarian Prison HQ on this matter.

c. Training of staff

At the National University of Public Service, Faculty of Law Enforcement, Department of Corrections training in prison psychology includes techniques for identifying and managing radicalisation for students who are studying to become prison officers.²⁵³

d. Deradicalisation measures

There are no national standards regarding radicalisation programmes.

e. NPM assessment

The NMM is not currently aware of any project or training for staff on radicalisation in Hungarian prisons. At the National University of Public Service, techniques for recognising and dealing with radicalisation are part of the training in prison psychology.²⁵⁴

²⁵¹ Hungary, Order 20/2021 (IV. 15.) of the NPA on the implementation of tasks relating to prisoners with special needs and prisoners in other specialised units [[20/2021. \(V. 17.\) AM rendelet az élelmiszerek és az élelmiszerekkel rendeltetészerűen érintkezésbe kerülő anyagok és tárgyak előállításáról és forgalomba hozataláról](#)], Article 25.

²⁵² Nagy G. D. and Tikász S. (2019), '[A radikalizálódás megelőzése a büntetés-végrehajtásban](#)' ('Prevention of radicalisation in the penitentiary system'), *Börtönügyi Szemle (Prison Review)*, No. 2, pp. 96–98.

²⁵³ The relevant [exam questions](#) are available online (in pdf format).

²⁵⁴ The relevant [exam questions](#) are available online (in pdf format).

There are no recommendations in the NPM reports on this topic. According to the findings of the EU call for proposals “FAIR Fighting Against Inmates Radicalisation”, launched on 9 October 2017 under the former JUSTICE Programme, 763538 - FAIR - JUST-AG-2016/JUST-AG-2016-03, the infiltration and recruitment of Islamist terrorists within the prison walls is not a common phenomenon in Hungary.²⁵⁵ Within the framework of the programme, the staff of Szeged Prison and Penitentiary also participated in a number of training courses.

The NPM is currently not aware of any similar project or training for staff. At the National University of Public Service, the teaching of prison psychology includes techniques for the detection and treatment of radicalisation.

The HHC is not aware of any specific measures to counter radicalisation in Hungarian prisons.

17. Inspections and monitoring

a. Inspections

A brief overview of the current system of control over the Hungarian prison system shows, first of all, that all the basic institutions necessary for the elimination and prevention of violations of the law, the protection of the legal position of prisoners and the provision of information to the public have been established. Moreover, the structure of the system of guarantees is essentially in line with the European average. At the international level, torture and cruel, inhuman or degrading treatment or punishment are prohibited by the national legislation of many countries, as well as by other international agreements. Of these, the UN Convention against Torture was adopted and promulgated by Hungary by Decree-Law No. 3 of 1988, and by Act LIX of 1990 Hungary recognised the competence of the Committee against Torture established by the UN Convention to investigate complaints of torture and inhuman or degrading treatment. On 18 December 2002, the 25th session of the UN General Assembly adopted the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Protocol contains two main provisions. It establishes the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and provides for the operation of a National Preventive Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) by all States parties to the Convention. On 24 October 2011, the Hungarian Parliament adopted Act CXLIII of 2011 designating the Commissioner for Fundamental Rights as the national preventive mechanism, who will take up his duties on 1 January 2015.

²⁵⁵ Nagy G. D. and Tikász S. (2019), ‘[A radikalizálódás megelőzése a büntetés-végrehajtásban](#)’ (‘Prevention of radicalisation in the penitentiary system’), *Börtönügyi Szemle (Prison Review)*, No. 2, pp. 96–98.

At the national level, control is exercised by the Prosecutor for the Supervision of the Legality of Prison Sentences and the Protection of Rights, the Prison Judge, the Parliamentary Commissioner for Citizens' Rights and certain non-governmental rights organisations (e.g. the Helsinki Committee).

International standards on control of the prison system have consistently emphasised the importance of both internal and external elements of a system of safeguards and control. The 2006 Recommendation of the Committee of Ministers of the Council of Europe on the European Prison Rules also points out that independent supervision can only effectively ensure professionalism and legality of execution in combination with a well-functioning internal control system. The two types of control do not replace or substitute each other, but are interdependent and mutually reinforcing, and any shortcoming in either weakens the whole system of safeguards.

Pursuant to Act CXI of 2011 on the Commissioner for Fundamental Rights, the Commissioner for Fundamental Rights has been responsible for the NPM in Hungary since 1 January 2015. As part of this activity, he regularly investigates the treatment of persons deprived of their liberty in places of detention, even in the absence of complaints and in cases of irregularities. In addition to the NPM, the Prosecutor's Office regularly monitors detention conditions. In addition, delegations of the SPT and the CPT carry out ad hoc visits as part of the preparation of periodic country reports. Individual complaints concerning the penitentiary system are also investigated by the Ombudsman under his general powers. The prohibition of torture and other cruel, inhuman or degrading treatment or punishment may not be derogated from in special circumstances or in a state of emergency threatening the existence of the nation.²⁵⁶ This was also underlined by the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter "SPT") in its Council Decision CAT/OP/10 of 7 April 2000.²⁵⁷ According to the SPT Council, the national preventive mechanisms in each country can decide on the measures they consider most appropriate in an epidemic situation and must exercise their mandate in the light of the restrictions on social contacts during a coronavirus epidemic.²⁵⁸ However, the Panel stressed that restrictions due to public health measures may increase the risk of abuse, but should not lead to a cessation of preventive visits. According to the SPT, national preventive mechanisms should continue to exercise their visitation powers during a coronavirus epidemic. Visits should be conducted with due regard to the principle of "do no harm", i.e. visits should be organised in

²⁵⁶ [International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) (promulgated by Decree-Law No. 3 of 1988), Article 2 (2), and International Covenant on Civil and Political Rights (promulgated by Decree-Law No. 8 of 1976), Articles 4 and 7.

²⁵⁷ OHCHR (2020), [Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic](#), 2 April 2020, point 5.

²⁵⁸ SPT Council, points 6, 7 and 11.

such a way that they do not pose a risk to the health of detainees and NPM staff.²⁵⁹ On the basis of this advice, the NPM carried out the tests during the epidemic period in full protective clothing, as announced in advance.

b. Access to detention facilities by national authorities

Persons holding the following offices may enter the prison at any time of the day and without any time limit: the President of Hungary, the Prime Minister, the Minister of Foreign Affairs, the President of the Constitutional Court, the President of the Curia, the Prosecutor General, the Commissioner for Fundamental Rights and his staff, the prison judge, the public prosecutor in charge of the lawfulness of prisons, the heads of the Ministry of the Interior and their staff responsible for inspection, the National Commander of the Prison System, his deputies and their staff responsible for inspection, the authorised representative of the international organisation responsible for prison conditions.

If one of the above-mentioned persons reports for entry, the person in charge of the entrance security shall immediately report to the commander during office hours and to the security officer on duty outside office hours, and these persons shall have the right to bring a mobile telephone into the area of the penitentiary without special permission, in addition to reporting for entry.

A Member of Hungarian or European Parliament may enter a prison for the purpose of inspection (during which they may speak to detainees without being inspected) only if the Parliament or the parliamentary committee has authorised them to do so. Unless authorised by the Parliament or a parliamentary committee, a Member of Parliament and a Member of the European Parliament may wish to have any form of contact with a prisoner in custody or a prisoner subject to criminal proceedings, but only in accordance with the provisions of the Code of Criminal Procedure on contact (and, in the case of non-relatives, with the authorisation of the public prosecutor or the judge, depending on the stage of the criminal proceedings) and under supervision. A Member of the National Assembly or a Member of the European Parliament who, of their own free will, wishes to have any form of contact with a prisoner who is not the subject of criminal proceedings may do so under supervision. The Member of the National Assembly and the Member of the European Parliament may be refused entry for the purposes of general information and visiting the prison.

OPCAT National Preventive Mechanism Unit: Inspections by the OPCAT unit may be carried out by contractors, external experts, interpreters and experts with experience (e.g. former prisoners). OPCAT

²⁵⁹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2022), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case No AJB-464/2022 in connection with the visit of the Hajdú-Bihar County Penitentiary Institute \(Previous case: AJB-4385/2021\)](#) [Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-464/2022. számú ügyben a Hajdú-Bihar Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (Előzmény ügy: AJB-4385/2021)], pp. 12–13.

staff and inspectors may talk to anyone (e.g. relatives, lawyers) on the spot, without the supervision of prison staff, if the persons concerned are present at the place of inspection. Inspectors will be provided with a separate room for the duration of the inspection and may use their own video and audio recording equipment. Unannounced inspections by members of the OPCAT unit shall be carried out on the basis of the terms of reference and the inspection plan for the establishment concerned and may take place at any time of the day. In the event of a situation other than a normal operation, OPCAT Section personnel may justify their mandate by means of a general, revocable letter of authority. Credentials are signed and stamped by the Commissioner for Fundamental Rights.

c. Access to detention facilities by international bodies

See answer a.

d. NPM assessment

Pursuant to Article 2 (6) of Article 2 of Act CXI of 2011 on the Commissioner for Fundamental Rights (hereinafter: the Act), the Commissioner for Fundamental Rights has been performing the functions of the NPM in Hungary since 1 January 2015. Within the framework of this activity, he regularly examines the treatment of persons deprived of their liberty in places of detention under Article 4 of the Protocol, pursuant to Article 39/B (1) of the Act, even in the absence of a complaint and of any alleged irregularities.

The conditions of detention are regularly monitored by the prosecutor's office besides the NPM. In addition, delegations from the SPT and the CPT carry out ad hoc visits in the framework of the preparation of regular country reports. Individual complaints concerning the penitentiary system are also investigated by the Ombudsman acting under his general powers.

The prohibition of torture and other cruel, inhuman or degrading treatment or punishment cannot be derogated from in the event of special circumstances or a state of emergency threatening the existence of the nation.²⁶⁰ This was also pointed out by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter: SPT) in its Council Decision CAT/OP/10 of 7 April 2020.²⁶¹ According to the SPT Council, the national preventive mechanisms in each state can decide on the measures they consider most appropriate in an epidemic situation, and must

²⁶⁰ See Article 2 (2) of the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (promulgated by Decree-Law No. 3 of 1988) and Articles 4 and 7 of the International Covenant on Civil and Political Rights (promulgated by Decree-Law No. 8 of 1976).

²⁶¹ OHCHR (2020), [Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic](#), 2 April 2020, point 5.

exercise their mandate in the light of the restrictions on social contacts during a coronavirus epidemic.²⁶² However, the Panel stressed that restrictions due to public health measures may increase the risk of abuse, but should not cause a cessation of preventive visits. According to the SPT, national preventive mechanisms should continue to exercise their visiting powers during a coronavirus epidemic. Visits should be conducted with due regard to the principle of “do not harm”, i.e. visits should be organised in such a way that they do not pose a risk to the health of detainees and NPM staff.²⁶³

On the basis of this advice, the NPM carried out the tests in full body protective clothing as announced in advance during the epidemic period.

The Hungarian NPM regularly conducts visits to penitentiary institutions and publishes the reports of these visits, although there is usually a two-year gap between the NPM’s visit and the publication of its reports.²⁶⁴ The NPM usually conducts unannounced visits to police detention facilities, while prisons are visited after prior notification to the NPA.²⁶⁵

The CPT appears to have adequate access to places of detention. It has carried out 11 visits to Hungary since the ratification of ECPT in 1993, its most recent periodic visit took place between 16 May 2023 and 26 May 2023, but its report has not yet been published.²⁶⁶

However, it is important to note that **there is no access for civil society to monitor criminal detention facilities** in Hungary. For more than two decades, between 1995 and 2017, the Hungarian Helsinki Committee ran a detention-monitoring programme, which ended because the Government unilaterally terminated the HHC’s cooperation agreement with the authorities. During the period of the detention-monitoring programme, the HHC carried out 1,234 monitoring visits to police jails, 48 visits to penitentiary institutions and made 51 inspections of places of immigration detention.

The termination of the HHC’s long-standing lay prison-monitoring programme resulted in a significant weakening of the protection of detainees’ rights and the chances of uncovering systemic problems. It also reduced the necessary capacity of the Hungarian monitoring system to deal with serious human rights violations within the penitentiary system.

²⁶² SPT Council, points 6, 7 and 11; Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-874/2021 in relation to the visit to the Mariánosztra Prison and Detention Centre](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-874/2021. számú ügyben a Máriaosztrai Fegyház és Börtön látogatásával összefüggésben*), p. 2.

²⁶³ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2022), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case No AJB-464/2022 in connection with the visit of the Hajdú-Bihar County Penitentiary Institute \(Previous case: AJB-4385/2021\)](#) [*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-464/2022. számú ügyben a Hajdú-Bihar Megyei Büntetés-végrehajtási Intézet látogatásával összefüggésben (Előzmény ügy: AJB-4385/2021)*], pp. 12–13.

²⁶⁴ See for example [the NPM’s 2023 reports](#) on penitentiaries, the visits the reports were referring to were conducted in 2021.

²⁶⁵ See (in English): [Visits–2023](#).

²⁶⁶ Council of Europe: [The CPT and Hungary](#).

18. Access to remedy

a. Legal remedies

According to Act CCXL of 2013 on the execution of penalties, measures, certain coercive measures and misdemeanour detention, the Hungarian prison service has a detailed legal remedies system. A convicted person and a person detained on other grounds may submit an application in a prison case or in connection with detention and may lodge a complaint against the decision on the application, and shall be entitled to other remedies the Act. If the Act allows for such a remedy, the convicted person and the person detained on other grounds shall be informed of it when the decision is taken. The convicted person and the person detained on other grounds may submit their application, complaint and request for appeal in writing. The statement of a sentenced person who cannot read or write or of a person detained on other grounds shall be recorded in the presence of two disinterested witnesses, if they so request. A convicted person or a person detained on other grounds who has a permanent or permanent sensory, communication, physical, intellectual or psychosocial impairment, or any accumulation thereof, or who cannot read or write, or who does not speak Hungarian, or who is disabled due to his or her state of health, shall be assisted in exercising their right to legal remedy. The convicted person or person detained on other legal grounds shall inform the body responsible for the enforcement of sentences of the existence of his or her disability, unless the body is aware of it. A juvenile or an adult placed under guardianship with full or partial restriction of capacity, or a convicted person with partial restriction of capacity or a person detained on other grounds, may file complaints, applications, appeals and statements in connection with a prison sentence or detention. A sentenced person or a person detained on other grounds shall, in relation to enforcement may apply directly to the public prosecutor's office responsible for the legal supervision of the enforcement of sentences, measures, certain coercive measures, detention in lieu of a disciplinary sanction and detention for misdemeanours, and may request to be heard by the public prosecutor, also directly to the Commissioner for Fundamental Rights and to the staff member of the National Preventive Mechanism mandated to fulfil the functions of the Optional Protocol against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as provided for in the Optional Protocol, and may submit a request or complaint to an international human rights protection organisation recognised by an international convention promulgated by law as competent to do so. With regard to legal relationships other than those referred earlier, convicted persons and persons detained on other grounds may assert their rights or apply to the courts or public bodies, lodge complaints, report abuse or make a public interest report, in accordance with the general rules, without any restrictions, including derogations arising from the fact of detention.²⁶⁷

²⁶⁷ Hungary, [Prison Act](#), Article 10.

b. Legal assistance

In other issues related to the custody or in any other issue, the convict or the person detained on other grounds may contact their representative both in writing and orally and – in compliance with the rules of the organisation carrying out the detention – personally, under control. If the representation is carried out by a lawyer, a legal advisor or a patent agent, the contact shall not be controlled. In connection with the procedure of the affected law enforcement institution, it is not possible to control the contact between the convict or the person detained on other grounds and the person representing him in a case presented to a human rights organisation established in an international agreement, particularly the European Court of Human Rights. Detainees can exercise their rights under criminal law without limitation. In order to have their authorisation signed, entry by lawyers to the territory of a remand prison area shall be ensured during and after official hours.²⁶⁸

c. Request and complaints

The prisoner has the right to express his/her opinion in the prisoners' forum within the prison organisation. The periodic prisoners' forums provide an opportunity for prisoners to express and discuss their problems related to their imprisonment with the management of the institution. Prisoners can also address individual requests and complaints to the head of the institution. Prisoners can also submit requests to a number of external NGOs or complaints to the above-mentioned bodies.

d. Independent authority

According to Article 10, during the execution, the convict or the person detained on other grounds shall be entitled to remedy according to this Act. Otherwise, the convict or the person detained on other grounds may enforce their rights according to the general rules, may apply to the court, and may submit a request or a complaint to the state organisations. In connection with the execution, the convict or the person detained on other grounds may directly contact the prosecutor performing the legal supervision of punishments, measures, court-ordered supervision, the custody served instead of a fine and post-charge non-criminal detention, and may request to be heard by the prosecutor, also may directly turn to the ombudsman and to their colleague authorised to carry out the duties of the national prevention mechanism (hereinafter “national prevention mechanism”) pursuant to Article 3 of the Facultative

²⁶⁸ Hungary, [Prison Act](#).

Protocol to the Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Penalties, or may file requests or complaints to various international organisations.

e. NPM assessment

Detainees can contact their lawyer without time limit or control, by telephone, letter, video call or personal visit. The COVID restrictions on contact also extended to contact with lawyers. Under BVOP Action Plan IV, as amended, access to partner organisations and to civilians was to be minimised. If the partner body (court, prosecutor's office, police), lawyer or other interested party could not refrain from interviewing the detainee in person, he or she had to wear protective equipment (mask and rubber gloves) on the prison premises, full protective equipment for contact with the detainee and, where justified, for access to the detainee's section.²⁶⁹

In the Márianosztra Prison and Detention Centre²⁷⁰ the specific legal provisions did not limit the possibility to correspond and communicate with the defender. In-person attorneys could meet with their clients in a separate booth in the visiting reception room, but typically preferred to communicate via Skype.

Generally speaking, the conversion of lawyers' meeting rooms in all prisons has eliminated the previous problems of lawyers' meeting rooms not complying with the legal requirement for lawyers to be able to speak to their clients without being monitored, which caused a backlash against the rule of law and the consequent requirement of legal certainty, and also violated the right to a fair trial.²⁷¹

For more information, see point 9 on the complaints mechanism and point 10 on contact.

a) Legal remedies

In March 2015, the ECtHR issued a pilot judgment²⁷² in the *Varga and Others v. Hungary* case on detention conditions in Hungary, condemning the country because

²⁶⁹ Protective clothing (overalls), mask, face shield, cap, rubber gloves. See BVOP Action Plan IV, Chapter II, point 1/C, as amended.

²⁷⁰ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2021), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-874/2021 in relation to the visit to the Mariánosztra Prison and Detention Centre](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-874/2021. számú ügyben a Márianosztrai Fegyház és Börtön látogatásával összefüggésben*), p. 17.

²⁷¹ Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in case AJB-1024/2023 in connection with the visit of the National Penitentiary Institute of Central Transdanubia to the Baracska Facility](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1024/2023. számú ügyben a Közép-dunántúli Országos Büntetés-végrehajtási Intézet Baracska Objektumának látogatásával összefüggésben*), p. 17; Hungary, Commissioner for Fundamental Rights in Hungary (*Alapvető Jogok Biztosa*) (2023), [REPORT of the Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism in Case AJB-1028/2023 in relation to the visit to the Vác Prison and Detention Centre](#) (*Az alapvető jogok biztosa mint OPCAT nemzeti megelőző mechanizmus JELENTÉSE az AJB-1028/2023. számú ügyben a Váci Fegyház és Börtön látogatásával összefüggésben*), p. 14.

²⁷² Hungary, HHC (2015), ['Pilot judgement on prison overcrowding'](#), 11 March 2015.

- the inadequate detention conditions of the applicants in the case amounted to the violation of the prohibition of inhuman or degrading treatment, and
- the applicants' rights were also violated by the lack of effective preventive and compensatory remedies with respect to their detention conditions.

The ECtHR concluded that the overcrowding of penitentiary institutions constituted a structural problem in the country, and set out that Hungary should produce "a time frame in which to make appropriate arrangements and to put in practice preventive and compensatory remedies" in respect of the alleged violations.

As a result, as of 1 January 2017, Hungary put in place a preventive and a compensatory remedy system, namely a mechanism for complaints about conditions of detention and one to claim compensation in respect of conditions of detention violating fundamental rights. This system was amended by Act CL of 2020, introducing a "simplified compensation procedure".

As one of the most important changes, the amendment abolished the requirement that detainees held in inhuman or degrading conditions must file a preventive complaint with the prison governor before they can submit a claim for financial compensation. From 1 January 2021, if inmates want to be compensated for overcrowding, they can submit the compensation claim to the penitentiary institution without any prior obligation. After the complaint has been submitted, the penitentiary institution may reject the complaint as inadmissible, start a simplified compensation procedure (newly introduced procedure) or refer the case to the penitentiary judge ("ordinary" compensation procedure).

The "simplified compensation procedure" was introduced as a new procedure, while the "ordinary", already existing compensation procedure has also been kept as part of the compensation scheme. In contrast to the ordinary compensation procedure, claims submitted in the simplified compensation procedure are adjudicated by the penitentiary institution itself. It must be noted that in these procedures, only the minimum daily sum of compensation – included in the Prison Act – can be awarded to the detainees, and only the lack of adequate moving/living space will be taken into account (irrespective of what other physical conditions the detainee asks compensation for). According to the HHC's understanding, under Article 75/G (6) of the Prison Act, detainees have the possibility to request a judicial review of the penitentiary's decision if they are of the view that the physical placement conditions, beyond overcrowding, were so substandard that those should have been taken into account as well when establishing the amount of compensation. It is to be noted that in cases where no overcrowding occurs, but other detention conditions are substandard, the "simplified compensation procedure" cannot be implied.

After the final decision on the compensation claim, paying the amount awarded to detainees remains the competence of the Ministry of Justice. Compensations shall be transferred to the detainee's

penitentiary depository account (a depository account handled by the penitentiary, used by detainees e.g. to purchase extra food in the penitentiary), hence, detainees are not allowed to request payment in cash.

The amount of compensation paid to the detainee's depository penitentiary account (shall be "reserved" for the time the detainee will be released. The prison governor may allow the detainee to forward the sum of the compensation or a part of it to their relatives or contact persons, upon the detainee's request and under exceptional circumstances.²⁷³ This rule essentially means that the state – which is the violator in such cases – determines what the detainees (whose possibilities are already limited in this regard) can do with the compensation they receive for a violation of their human rights by state authorities. The possibility of the prison governor granting an exception to this rule when it comes to payments to the detainees' family and other contact persons makes detainees even more vulnerable to the prison governor, who can decide in a range of questions profoundly affecting the detainees' daily life. We believe that the rule is discriminatory, as no other persons entitled to compensation for the violation of their fundamental rights are restricted in when and how they wish to use the compensatory amount. The detrimental impact of this limitation is even clearer with regard to inmates serving long sentences, as in their case, the ability to access the compensation may be delayed for decades. Finally, it seems that inmates are not allowed before their release to use the compensation money for paying the fees of the attorneys who represented them in the compensation procedure (or, in the best case, they are allowed to do so if the commander permits this within their discretion).

As highlighted above, despite the Council of Europe Committee of Ministers repeatedly expressed concerns,²⁷⁴ if the statutory minimum of living space is ensured, detainees are not entitled to claim compensation for inadequate material conditions of detention (e.g. unsanitary circumstances, lack of proper ventilation or lighting or temperature, insect infestations etc.). In such cases, there is no special legal remedy available in the Hungarian legal system to redress detainees' grievances due to inadequate prison conditions. If a detainee feels that they are being held in inappropriate prison conditions, they can exercise their right to legal remedy under the general legal remedy system. Detainees can indeed file a civil action based on infringement of personality rights. However, this is a general civil law claim decided upon in a general civil law procedure rather than a specific procedure tailored to prison conditions. Thus, it is typically a multi-stage litigation that lasts for years. It may also be costly: in case of losing the lawsuit, the plaintiff prisoner has to pay the court fees (6% of the compensation claimed)

²⁷³ Act CL of 2020 Article 18 amending the Prison Act by inserting paragraph (4a) into its Article 133.

²⁷⁴ See e.g. paragraph 2(a) of the Notes of the Department for the Execution of Judgments on the Agenda of the Committee of Ministers regarding the Varga and Others and István Gábor Kovács group v. Hungary (Applications Nos. 14097/12, 15707/10), [CM/Notes/1398/H46-12_11/03/2021](https://www.coe.int/en/cominf/cm/Notes/1398/H46-12_11/03/2021).

as well as the other party's legal costs. (The other party's legal costs must be paid even if due to the inmate's indigence a legal aid lawyer is appointed for them and they are exempted from the court fees.)

b) Legal assistance

The simplified compensation procedure (for overcrowding) may be launched without a lawyer, if the inmate has the necessary skills to fill out the complaint formula. However, in case a lawyer is needed, legal assistance is only available with the limitations described below.

The possibility of having a lawyer appointed by the state for an inmate wishing to launch a compensation procedure, does not offer a viable solution for the problem for the following reasons. Under Decree 32/2017 (XII. 27.) of the Minister of Justice on the Fees Payable to Appointed Lawyers (paid by the State to the lawyer), an appointed counsel is only entitled to an appointed lawyer's fee in court proceedings or during the pre-charge phase of criminal proceedings.

The compensation procedure starts with a claim filed to the penitentiary. The penitentiary examines the claim and rejects it if there are apparent grounds for refusal (e.g. because the claim is not made by the person entitled to make it or because it was submitted late). If the claim is justified and there are no other particular circumstances to concern (e.g. civil compensation payable to the victim of a crime committed by the applicant prisoner), the institution awards compensation ("simplified procedure"). The institution only refers the claim to the penitentiary judge if no simplified procedure is possible.

In light of the rules mentioned above, the appointed counsel is only entitled to a fee if and from the moment the claim is forwarded by the penitentiary to the penitentiary judge, since then the procedure can be considered as a court proceeding within the meaning of Article 1 (1) of Decree 32/2017 (XII. 27.) of the Minister of Justice. Even in this case, the appointed counsel is only remunerated if they (1) participate in a procedural act, (2) prepare for a procedural act, or (3) consult their client. Appointed lawyers are not remunerated for preparing and submitting documents. Under the Prison Act, the penitentiary judge can decide on a compensation claim based on the case file without holding a hearing. In such cases, no procedural act takes place, thus the only activity for which the appointed counsel may claim remuneration throughout the whole compensation procedure is the consultation with their client, but not for obtaining information from the penitentiary institution, for compiling and submitting the claim itself, nor for appealing against a decision by the penitentiary judge. The public fee for the consultation is HUF 4,200 (approximately EUR 11) per hour, set by the law.

c) Independent authority

As regards the procedure of the prosecutor's office in charge of the legal supervision of the penitentiary system, prosecutors typically find a violation only if a specific provision of the Prison Act or other

sectoral, prison-related legislation is violated. If there is no such violation, but for example, a violation of certain inherent personality rights, such as human dignity or health, they typically find the complaint unfounded, even though these rights are not limited by the Prison Act and are expressly guaranteed by the Fundamental Law or the Civil Code of Hungary, or even by international conventions such as the ECHR.

The Commissioner for Fundamental Rights is Hungary's national preventive mechanism (NPM) under the OPCAT since 2015. In 2021, the Committee of Ministers of the Council of Europe expressed concerns regarding the NPM's functional independence and funding, the human and financial resources allocated to it, and "its capacity to carry out additional preventive work other than detention monitoring".²⁷⁵ In December 2022, it reiterated its call on Hungarian authorities to provide information on measures taken or foreseen to strengthen the role of the CFR in performing its NPM function.²⁷⁶

The law²⁷⁷ provides the right to inmates to apply to the NPM. However, the NPM has no general powers to investigate individual complaints.

²⁷⁵ [CM/Del/Dec\(2021\)1419/H46-16](#), paragraph 7.

²⁷⁶ [CM/Del/Dec\(2022\)1451/H46-16](#), paragraph 10.

Part II: National case-law

Hungary, Constitutional Court of Hungary (Alkotmánybíróság), Budapest, Nr. 3478/2023 (XI. 7.)

Thematic area	10. Contact with the outside world
Decision date	Constitutional Court of Hungary Case Nr. 3478/2023. (XI. 7.)
Reference details	Constitutional complaint against certain provisions of the Decree of the Minister of Justice No. 16/2014 (XII. 19.) on the detailed rules of implementing imprisonment, confinement, pre-trial detention and confinement replacing disciplinary fine (rules of contact via telecommunication tools in a penal institution)
Key facts of the case	Constitutional complaint against certain provisions of the Decree of the Minister of Justice No. 16/2014 (XII. 19.) on the detailed rules of implementing imprisonment, confinement, pre-trial detention and confinement replacing disciplinary fine (rules of contact via telecommunication tools in a penal institution)
Main reasoning/ argumentation	According to the contested provision of the regulation, the communication of a prisoner in the strictest regime by means of a telecommunication device within the enforcement level of the prison is allowed once a month for a period of 60 minutes, which can be extended by 30 minutes upon request.
Key issues (concepts, interpretations) clarified by the case	In the petitioner's view, the regulation imposes unnecessary and disproportionate restrictions on communication by telecommunication in comparison with this statutory provision. In the petitioner's view, Article I.3 of the Fundamental Law is violated by the fact that in the contested case a fundamental right is restricted by means of a regulation. Furthermore, the right to communication guaranteed by Article VI.1 of the Basic Law and the right to human dignity guaranteed by Article II are violated by the restriction of communication by means of telecommunications to a minimum.
Results (sanctions) and key consequences or implications of the case	The Constitutional Court dismissed the constitutional complaint seeking a declaration of unconstitutionality and the annulment of the decision.
Key quotation in original language and translated into English with reference details	According to the provisions of the Prison Act, prisoners are entitled to be contacted by telecommunication at least once a month, and occasionally for a minimum of one hour and a maximum of two hours, in accordance with the rules applicable to the enforcement levels and regimes. On the other hand, Article

	<p>39 (2) of the Regulation (relating to the prison level), which provides for the possibility of communication by telecommunication for a period of 60 minutes once a month, which may be extended by 30 minutes on request, does not, as the applicant denies, set the duration of communication for the prison (strict regime) level within the statutory limits.</p> <p>In other words, the regulation does not grant prisoners a period of contact that is less than the statutory period. The mere fact that the Ordinance does not grant prisoners serving their sentence in the most severe level of enforcement (prison) the maximum (possible) duration under the law, but rather a duration within the limits of the law, does not raise a question of fundamental constitutional importance in relation to Article VI (1) of the Basic Law, on the basis of which the constitutional complaint would meet the requirements for admissibility. Consequently, the petition does not fulfil the admissibility requirement laid down in paragraph 29 of the Act.</p>
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Hungary, Constitutional Court of Hungary (Alkotmánybíróság), Budapest, Nr. 3514/2023. (XII. 1.)

Thematic area	8. Healthcare
Decision date	Constitutional Court of Hungary Case Nr. 3514/2023. (XII. 1.)
Reference details	Constitutional complaint against the judgement No. Pfv.VI.20.884/2022/7 of the Curia (night lights in the penal institution, enforcement of a claim for the protection of personality)
Key facts of the case	Constitutional complaint against the judgement of the Curia (night lights in the penal institution, enforcement of a claim for the protection of personality)
Main reasoning/ argumentation	The applicant, as plaintiff, brought an action against the defendant prison for a declaration that the defendant had violated his human dignity and his physical and mental health rights by failing to ensure his peaceful night's rest for years, by disturbing his sleep with nightly checks, and for payment of non-pecuniary damages.
Key issues (concepts, interpretations) clarified by the case	According to the grounds of the judgment, under Article 9 (2) of the Prison Act, when restricting a prisoner's fundamental rights in a penitentiary institution, the least restrictive means suitable for achieving the aim in question must be used. In the case of the night inspection, the defendant wished to carry out the inspection under reduced lighting conditions and thus sought to carry out the inspection in a way that was less disturbing for the prisoners. A violation of human dignity can be established if the perpetrator behaves in a manner unworthy of human existence and human life, which the plaintiff has neither alleged nor proven.
Results (sanctions) and key consequences or implications of the case	The Constitutional Court dismissed the constitutional complaint seeking a declaration of unconstitutionality and the annulment of the decision.
Key quotation in original language and translated into English with reference details	First, the Constitutional Court examined whether the constitutional complaint met the criteria for admissibility of complaints set out in the Act. As a result of its examination, the Constitutional Court found that the constitutional complaint was inadmissible.