January 2024
This factsheet does not bind the Court and is not exhaustive

Life imprisonment

See also the factsheet on "Extradition and life imprisonment".

"… [I]n the context of a life sentence, **Article 3** [**of the European Convention on Human Rights**, which prohibits torture and inhuman or degrading treatment or punishment[1],] must be interpreted as requiring reducibility of the sentence, in the sense of a review which allows the domestic authorities to consider whether any changes in the life prisoner are so significant, and such progress towards rehabilitation has been made in the course of the sentence, as to mean that continued detention can no longer be justified on legitimate penological grounds.

However, the [European] Court [of Human Rights] would emphasise that, having regard to the margin of appreciation which must be accorded to Contracting States in the matters of criminal justice and sentencing …, it is not its task to prescribe the form (executive or judicial) which that review should take. For the same reason, it is not for the Court to determine when that review should take place. This being said, … the comparative and international law materials before [the Court] show clear support for the institution of a dedicated mechanism guaranteeing a review no later than twenty-five years after the imposition of a life sentence, with further periodic reviews thereafter ...

It follows from this conclusion that, where domestic law does not provide for the possibility of such a review, a whole life sentence will not measure up to the standards of Article 3 of the Convention.

… Furthermore, … [a] whole life prisoner is entitled to know, at the outset of his sentence, what he must do to be considered for release and under what conditions, including when a review of his sentence will take place or may be sought. Consequently, where domestic law does not provide any mechanism or possibility for review of a whole life sentence, the incompatibility with Article 3 on this ground already arises at the moment of the imposition of the whole life sentence and not at a later stage of incarceration." (*Vinter and Others v. the United Kingdom*, judgment (Grand Chamber) of 9 July 2013, §§ 119-122).

Kafkaris v. Cyprus

12 February 2008 (Grand Chamber – judgment)

The applicant, who was found guilty on three counts of premeditated murder, complained about his life sentence and continuing detention. In particular, he alleged that his mandatory life sentence amounted to an irreducible term of imprisonment. He also submitted that his continuous detention beyond the date set for his release by the prison authorities was unlawful and that it had left him in a prolonged state of distress and uncertainty over his future.

The European Court of Human Rights held that there had been **no violation of Article 3** of the Convention. Concerning the length of the detention, While the prospect of release for prisoners serving life sentences in Cyprus was limited, this did not mean that life sentences in Cyprus were irreducible with no possibility of release. On the contrary, such sentences were both de jure and de facto reducible. A number of prisoners serving mandatory life sentences had been released under the President's

[1] Article 3 (prohibition of torture and inhuman or degrading treatment or punishment) of the European Convention on Human Rights provides that: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

constitutional powers and life prisoners could benefit from the relevant provisions at any time without having to serve a minimum period of imprisonment. Accordingly, although there were shortcomings in the procedure in place and reforms were under way, the applicant could not claim that he had been deprived of any prospect of release or that his continued detention – though long – constituted inhuman or degrading treatment.

See also: **Kafkaris v. Cyprus**, decision on the admissibility of 21 June 2011 (which declared the application inadmissible because it was substantially the same as the previous one); **Lynch and Whelan v. Ireland**, decision on the admissibility of 18 June 2013.

Garagin v. Italy

29 April 2008 (decision on the admissibility)

The applicant was sentenced by two different Italian courts in 1995 and 1997 to twenty-eight and thirty years' imprisonment. He could expect to be released in March 2021, or sooner if granted remission of sentence. In 2006, however, the Rome Assize Court of Appeal, referring to the relevant case-law of the Court of Cassation, declared that the applicant should serve a life sentence.

The Court declared the application **inadmissible** as manifestly ill-founded. It observed in particular that in the Italian legal system a person sentenced to life imprisonment might be granted more lenient conditions of detention, or early release. Referring to the principles set forth in its *Kafkaris v. Cyprus* judgment (see above), the Court found that in Italy life sentences were reducible *de jure* and *de facto*. It could not be said, therefore, that the applicant had no prospect of release or that his detention in itself, albeit lengthy, amounted to inhuman or degrading treatment. The mere fact of giving him a life sentence did thus not attain the necessary level of gravity to bring it within the scope of Article 3 of the Convention.

Streicher v. Germany

10 February 2009 (decision on the admissibility)

Meixner v. Germany

3 November 2009 (decision on the admissibility)

Sentenced to life imprisonment, the applicants requested a suspension of their sentence after fifteen years' imprisonment. The competent court refused the request, on the grounds that there was a high risk of the applicants again committing crimes when released.

The Court declared both applications **inadmissible** as manifestly ill-founded, finding that the applicants were not deprived of hope of being released again, as German law provided for a parole system and they could therefore lodge a new request to be released on probation.

Léger v. France

30 March 2009 (Grand Chamber – strike-out judgment)

The applicant was sentenced to life imprisonment in 1966, no minimum term being set. He alleged in particular that in practice his continued detention for more than 41 years was tantamount to a whole-life sentence and therefore constituted inhuman and degrading treatment. Released on licence with effect from October 2005 until October 2015, the applicant died in July 2008.

In its Chamber judgment of 11 April 2006, the Court held, by five votes to two, that there had been no violation of Article 3 of the Convention. Noting in particular that, after 15 years of imprisonment, the applicant had been able to request his release on licence at regular intervals and had been protected by procedural safeguards, the Chamber found that he could not therefore assert that he had been deprived of all hope of obtaining partial remission of his sentence, which was not irreducible. Accordingly, the applicant's prolonged detention had not as such, however long it had been, constituted inhuman or degrading treatment.

In September 2006 the Panel of five judges of the Grand Chamber accepted the applicant's request that the case be referred to the Grand Chamber[2]. In its judgment of 30 March 2009 the Grand Chamber noted that the applicant had been found dead in his home on 18 July 2008 and that the ensuing request to pursue the proceedings in his place had been submitted by someone who had provided no evidence either of her status as an heir or a close relative of the applicant, or of any legitimate interest. Nor did the Grand Chamber consider that respect for human rights required the examination of the case to be continued, given that the relevant domestic law had in the meantime changed and that similar issues in other cases before the Court had been resolved. It therefore decided to **strike** the case **out** of its list of cases, in application of Article 37 (striking out applications) of the Convention

Iorgov (no. 2) v. Bulgaria

2 September 2010 (judgment)

Convicted of murder in 1990, the applicant's original death sentence was commuted to life imprisonment without commutation in 1999. He complained in particular that his sentence, which had denied him any possibility of early release, had been inhuman and degrading.

The Court held that there had been **no violation of Article 3** of the Convention. The applicant, having been sentenced to life imprisonment without commutation, could admittedly not be released on licence under domestic law, since that measure was applicable only to prisoners serving fixed-term sentences. Nor could his sentence be commuted to a fixed-term sentence. Nevertheless, the possibility of an adjustment of his sentence, and of his eventual release, did exist in domestic law in the form of a pardon or commutation by the Vice-President. It followed that a life sentence without commutation was not an irreducible penalty *de jure*. In the applicant's case, the Court observed that, by the time he had lodged his complaint in August 2002, he had served only thirteen years of his life sentence. Moreover, he had submitted an application for presidential clemency, which had been examined and rejected by the appropriate committee. Neither the legislation nor the authorities prevented him from submitting a new application to the Vice-President. Accordingly, it had not been proved beyond reasonable doubt that the applicant would never have his sentence reduced in practice and it had not been established that he was deprived of all hope of being released from prison one day.

See also, among others: **Todorov v. Bulgaria** and **Simeonovi v. Bulgaria**, decisions on the admissibility of 23 August 2011; **Dimitrov and Ribov v. Bulgaria**, decision of 8 November 2011; **Iordan Petrov v. Bulgaria**, judgment of 24 January 2012; **Kostov v. Bulgaria**, decision on the admissibility of 14 February 2012.

Törköly v. Hungary

5 April 2011 (decision on the admissibility)

This case concerned a life sentence without any eligibility on parole before 40 years.

The Court declared **inadmissible** as being manifestly ill-founded the applicant's complaint that the sentence in question amounted to inhuman and degrading treatment. Although the applicant would only become eligible for conditional release in 2044, that is, when he would be 75 years old, it considered that the judgment imposed on the applicant guaranteed a distant but real possibility for his release. In addition, the Court noted that the applicant might be granted presidential clemency even earlier, at any time after his conviction. It therefore concluded that the life sentence was reducible *de jure* and *de facto.*

[2]. Under Article 43 (referral to the Grand Chamber) of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final.

Vinter and Others v. the United Kingdom

9 July 2013 (Grand Chamber – judgment)

The three applicants in this case had been given whole life orders, meaning they could not be released other than at the discretion of the Justice Secretary, who would only do so on compassionate grounds (for example, in case of terminal illness or serious incapacitation). They complained that their imprisonment for life amounted to inhuman and degrading treatment as they had no hope of release.

The Grand Chamber held that there had been a **violation of Article 3** of the Convention, finding that the requirements of that provision had not been met in relation to any of the three applicants. The Court considered in particular that, for a life sentence to remain compatible with Article 3, it had to be reducible, or in other words there had to be a prospect of the prisoner's release and the possibility of a review of the sentence. It noted that there was clear support in European and international law and practice for those principles, with the large majority of Convention Contracting States not actually imposing life sentences at all or, if they did, providing for a review of life sentences after a set period (usually 25 years' imprisonment). In the applicants' case, the Court noted that domestic law concerning the Justice Secretary's power to release a person subject to a whole life order was unclear. In addition, prior to 2003 a review of the need for a whole life order had automatically been carried out by a Minister 25 years into the sentence. This had been eliminated in 2003 and no alternative review mechanism put in place. In these circumstances, the Court was not persuaded that the applicants' whole life sentences were compatible with the Convention. In finding a violation in this case, however, the Court did not intend to give the applicants any prospect of imminent release. Whether or not they should be released would depend, for example, on whether there were still legitimate penological grounds for their continued detention and whether they should continue to be detained on grounds of dangerousness. These questions were not in issue in this case and were not the subject of argument before the Court.

Öcalan v. Turkey (no. 2)

18 March 2014 (judgment)

The applicant, the founder of the PKK (Kurdistan Workers' Party), an illegal organisation, complained mainly about the irreducible nature of his sentence to life imprisonment, and about the conditions of his detention in İmralı Prison (Bursa, Turkey). Following the August 2002 abolition in Turkey of the death penalty in peace time, the Ankara State Security Court had in October 2002 commuted the applicant's death sentence to life imprisonment.

The Court held that there had been **a violation of Article 3** of the Convention as regards the applicant's sentence to life imprisonment without any possibility of conditional release, finding that, in the absence of any review mechanism, the life prison sentence imposed on the applicant constituted an irreducible sentence that amounted to inhuman treatment. The Court observed in particular that, on account of his status as a convicted person sentenced to aggravated life imprisonment for a crime against State security, it was clearly prohibited for him to apply for release throughout the duration of his sentence. Moreover, whilst it was true that under Turkish law the President of the Republic was entitled to order the release of a person imprisoned for life who was elderly or ill, that was release on compassionate grounds, different from the notion of "prospect of release". Similarly, although the Turkish legislature regularly enacted laws of general or partial amnesty, the Court had not been shown that there was such a governmental plan in preparation for the applicant or that he had thereby been offered a prospect of release.

See also: **Kaytan v. Turkey**, judgment of 15 September 2015; **Gurban v. Turkey**, judgment of 15 December 2015; **Boltan v. Turkey**, judgment of 12 February 2019.

László Magyar v. Hungary

20 May 2014 (judgment)

The applicant was convicted of murder, robbery and several other offences and was sentenced to life imprisonment without eligibility for parole. Although the Hungarian Fundamental law provided for the possibility of a presidential pardon, since the introduction of whole life terms in 1999, there had been no decision to grant clemency to any prisoner serving such a sentence. The applicant complained mainly that his imprisonment for life without eligibility for parole amounted to inhuman and degrading treatment as it was irreducible.

The Court held that there had been a **violation of Article 3** of the Convention as concerned the applicant's life sentence without eligibility for parole. It was in particular not persuaded that Hungarian law allowed life prisoners to know what they had to do to be considered for release and under what conditions. In addition, the law did not guarantee a proper consideration of the changes in the life of prisoners and their progress towards rehabilitation. Therefore, the Court concluded that the sentence of the applicant could not be regarded as reducible, which amounted to a violation of Article 3.

Moreover, the Court held that this case disclosed a systemic problem which could give rise to similar applications. Therefore, for the proper implementation of the judgment, it invited Hungary, under **Article 46** (binding force and execution of judgments) of the Convention, to put in place a reform of the system of review of whole life sentences to guarantee the examination in every case of whether continued detention is justified on legitimate grounds and to enable whole life prisoners to foresee what they must do to be considered for release and under what conditions. The Court also reiterated that States enjoyed wide discretion ("margin of appreciation") in deciding on the appropriate length of prison sentences for specific crimes. Therefore, the mere fact that a life sentence could eventually be served in full, did not make it contrary to Article 3 of the Convention. Accordingly, review of whole life sentences did not necessarily have to lead to the release of the prisoners in question.

Harakchiev and Tolumov v. Bulgaria

8 July 2014 (judgment)

This case essentially concerned life imprisonment without commutation, which was introduced in Bulgaria in December 1998 following the abolition of the death penalty, as well as the strict detention regime in which life prisoners are held. The two applicants were serving sentences of life imprisonment, the first applicant without commutation, the second with commutation. They both complained of their conditions of detention and of the lack of an effective domestic remedy. In addition, the first applicant maintained that his sentence of life imprisonment without commutation amounted to inhuman and degrading punishment as it implied that he could never be rehabilitated and would have to spend the rest of his life in prison.

The Court held that there had been a **violation of Article 3** of the Convention, as concerned the first applicant's inability to obtain a reduction of his sentence of life imprisonment without commutation from the time when it became final. Confirming in particular that the mere imposition of a sentence of life imprisonment was not in itself contrary to the prohibition of inhuman and degrading treatment set out in Article 3 of the Convention, the Court however went on to say that from the time when the applicant's sentence had become final – November 2004 – to the beginning of 2012, his sentence of life imprisonment without commutation had amounted to inhuman and degrading treatment as he had neither had a real prospect of release nor a possibility of review of his life sentence, this being aggravated by the strict regime and conditions of his detention limiting his rehabilitation or self-reform. During that time, the presidential power of clemency that could have made the applicant's sentence reducible and the way in which it was exercised was indeed opaque, lacking formal or even informal safeguards. Nor were there any concrete examples of a person serving a sentence of life imprisonment without commutation being able to obtain an adjustment of that sentence. Furthermore, whilst there was no right to rehabilitation under the Convention,

State authorities were required to give life prisoners a chance, however remote, to someday regain their freedom. For that chance to be genuine and tangible, life prisoners had to be given a proper opportunity to rehabilitate themselves. In that context, although a State had a lot of room for manoeuvre ("wide margin of appreciation") to decide on such things as the regime and conditions of a life prisoner's incarceration, those points could not be considered as a matter of indifference. The Court cautioned, however, that the finding of violation could not be understood as giving the applicant the prospect of imminent release. Lastly, the Court did note though that, following reforms in 2012, the manner in which presidential power of clemency was being exercised was now clear, allowing for the prospect of release or commutation. Since that time, therefore, the applicant's imprisonment without commutation could, at least formally, be regarded as reducible[3].

See also: **Manolov v. Bulgaria**, judgment of 4 November 2014.

Čačko v. Slovakia

22 July 2014 (judgment)

The applicant in this case alleged that his life sentence without the possibility of release on parole amounted to inhuman and degrading punishment as he saw no prospect of obtaining a presidential pardon or having his sentence commuted. He also maintained that he had not been able to obtain effective judicial review of his life sentence under the national law and practice.

The Court held that there had been **no violation of Article 3** of the Convention. It noted in particular that a judicial review mechanism rendering possible a conditional release of whole-life prisoners in the applicant's position after 25-years of service of their term was introduced in January 2010, a relatively short time after the applicant's conviction and the introduction of the application before the Court in October 2008, and that during a substantial part of that period the applicant continued his attempts to obtain redress before the national courts. The Court also held that there been **no violation of Article 13** (right to an effective remedy) **taken in conjunction with Article 3** of the Convention.

See also: **Koky v. Slovakia**, decision on the admissibility of 16 May 2017.

Bodein v. France

13 November 2014 (judgment)

This case concerned in particular the applicant's sentence to life imprisonment without any possibility of sentence reduction. The applicant alleged that his sentence was contrary to Article 3 of the Convention inasmuch as, in his view, he had been offered no possibility of any kind of sentence adjustment or any form of release measure.

The Court reiterated, in particular, that a life sentence was compatible with Article 3 of the Convention if it was reducible, or in other words if there was a possibility of reviewing the sentence, of which the prisoner had to be apprised of all the terms and conditions at the outset of his or her sentence. In addition, the form of such review, as well as the question of how much of the sentence had to be served before a review could take place, were matters within the States' own margin of appreciation. Lastly, a clear trend was nevertheless emerging in comparative and international law in favour of a mechanism guaranteeing a review of life sentences at the latest 25 years after their imposition. In the present case, the Court held that there had been **no violation of Article 3** of the Convention, finding that French law provided a facility for reviewing life sentences which was sufficient, in the light of the room for manoeuvre ("margin of

[3]. In this case the Court also held that there had been a **violation of Article 3** of the Convention, in respect of both application, on account of the regime and conditions of their detention, and a **violation of Article 13** (right to an effective remedy) of the Convention as concerned the lack of effective domestic remedies. Moreover, under **Article 46** (binding force and execution of judgments) of the Convention, the Court held that to properly implement this judgment Bulgaria should reform, preferably by means of legislation, the legal framework governing the prison regime applicable to persons sentenced to life imprisonment with or without parole by addressing, in particular, the imposition of a highly restrictive prison regime and isolation automatically on all life prisoners.

appreciation") left to States in in the criminal justice and sentencing fields, to conclude that the sentence imposed on the applicant was reducible for the purposes of Article 3. The Court noted, indeed, that French law provided for judicial review of the convicted person's situation and possible sentence adjustment after 30 years' incarceration. The Court took the view that such review, which was geared to assessing the prisoner's dangerousness and considering how his conduct had changed while he served his sentence, left no uncertainty as to the existence of a "prospect of release" from the outset of the sentence. In the applicant's case, after deducting the period of pre-trial detention, he would become eligible for a review of his sentence in 2034, that is to say 26 years after the Assize Court had sentenced him to life imprisonment, and if appropriate, could be released on parole.

See also: **Vella v. Malta**, decision (Committee) of 19 November 2019.

Murray v. the Netherlands

26 April 2016 (Grand Chamber – judgment)

This case concerned the complaint by a man convicted of murder in 1980, who consecutively served his life sentence on the islands of Curaçao and Aruba (part of the Kingdom of the Netherlands) – until being granted a pardon in 2014 due to his deteriorating health –, about his life sentence without any realistic prospect of release. The applicant – who in the meantime passed away[4] – notably maintained that he was not provided with a special detention regime for prisoners with psychiatric problems. Although a legal mechanism for reviewing life sentences had been introduced shortly after he lodged his application with the Court, he argued that, *de facto*, he had no perspective of being released since he had never been provided with any psychiatric treatment and therefore the risk of his reoffending would continue to be considered too high to be eligible for release.

The Court held that there had been a **violation of Article 3** of the Convention. It underlined in particular that under its case-law States had a large room for manoeuvre ("margin of appreciation") in determining what measures were required in order to give a life prisoner the possibility of rehabilitating himself or herself. However, although the applicant had been assessed, prior to being sentenced to life imprisonment, as requiring treatment, no further assessments had been carried out of the kind of treatment that might be required and could be made available. Consequently, at the time he lodged his application with the Court, any request by him for a pardon was in practice incapable of leading to his release. Therefore his life sentence had not *de facto* been reducible, as required by the Court's case-law under Article 3 of the Convention.

T.P. and A.T. v. Hungary (nos. 37871/14 and 73986/14)

4 October 2016 (judgment)

This case concerned new legislation introduced in Hungary in 2015 for reviewing whole life sentences[5]. The applicants alleged that despite the new legislation, which introduced an automatic review of whole life sentences – via a mandatory pardon procedure – after 40 years, their sentences remained inhuman and degrading as they had no hope of release.

The Court held that there had been a **violation of Article 3** of the Convention. It found in particular that making a prisoner wait 40 years before he or she could expect for the first time to be considered for clemency was too long and that, in any case, there was a lack of sufficient safeguards in the remainder of the procedure provided by the new legislation. The Court was not therefore persuaded that, at the time of its judgment in the case, the applicants' life sentences could be regarded as providing them with the prospect of release or a possibility of review and the legislation was not therefore compatible with Article 3 of the Convention.

4. Two of his relatives subsequently pursued his case before the Court.
5. The legislation was introduced in order to comply with the *László Magyar v. Hungary* judgment of 2014 (see above) in which the Court found that the system for reviewing whole life sentences in Hungary should be reformed.

See also: **Kruchió and Lehóczki v. Hungary**, judgment (Committee) of 14 January 2020; **Sándor Varga and Others v. Hungary**, judgment of 17 June 2021; **Bancsók and László Magyar (no. 2) v. Hungary**, judgment of 28 October 2021.

Hutchinson v. the United Kingdom

17 January 2017 (Grand Chamber – judgment)

In 1984 the applicant was convicted of aggravated burglary, rape and three counts of murder, the trial judge sentencing him to a term of life imprisonment with a recommended minimum tariff of 18 years. In 1994 the Secretary of State informed the applicant that he had decided to impose a whole life term and, in May 2008, the High Court found that there was no reason for deviating from this decision given the seriousness of the offences committed. The applicant's appeal was dismissed by the Court of Appeal in October 2008. Before the European Court, he alleged that his whole life sentence amounted to inhuman and degrading treatment as he had no hope of release.

The Grand Chamber held that there had been **no violation of Article 3** of the Convention. It reiterated in particular that the Convention did not prohibit the imposition of a life sentence on those convicted of especially serious crimes, such as murder. However, to be compatible with the Convention there had to be both a prospect of release for the prisoner and a possibility of review of their sentence. In the present case, the Grand Chamber considered that the UK courts had dispelled the lack of clarity in the domestic law on the review of life sentences. The discrepancy identified in in the *Vinter and Others* judgment of 9 July 2013 (see above) between the law and the published official UK policy had notably been resolved by the UK Court of Appeal in a ruling affirming the statutory duty of the Secretary of State for Justice to exercise the power of release for life prisoners in such a way that it was compatible with the Convention. In addition, the Court of Appeal had brought clarification as regards the scope and grounds of the review by the Secretary of State, the manner in which it should be conducted, as well as the duty of the Secretary of State to release a whole life prisoner where continued detention could no longer be justified. The Grand Chamber also highlighted the important role of the Human Rights Act, pointing out that any criticism of the domestic system on the review of whole life sentences was countered by the HRA as it required that the power of release be exercised and that the relevant legislation be interpreted and applied in a Convention-compliant way. The Grand Chamber therefore concluded that whole life sentences in the United Kingdom could now be regarded as compatible with Article 3 of the Convention.

Matiošaitis and Others v. Lithuania

23 May 2017 (judgment)

The applicants, who have all been sentenced to life imprisonment, claimed in particular that there was no realistic prospect of their sentences being commuted, and that they were therefore imprisoned with no prospect of release. They complained that this punishment amounted to treatment which was in violation of Article 3 of the Convention.

The Court held that there had been a **violation of Article 3** of the Convention in respect of six of the applicants, finding in particular that, at the time of the present judgment, the applicants' life sentences could not be regarded as reducible for the purposes of Article 3. As to the two other applicants, the Court decided to strike their applications out of its list of cases, under Article 37 (striking out applications) of the Convention, as the circumstances lead to the conclusion that they did not intend to pursue their application.

Petukhov v. Ukraine (no. 2)

12 March 2019 (Chamber judgment)

This case mainly concerned a prisoner's complaint that Ukrainian law did not provide for release on parole for life prisoners. The applicant, who had been serving a life sentence since 2004, submitted that the only possibility for him to be released was through a procedure of presidential clemency. He alleged that, under that procedure,

it was not clear what life prisoners had to do to be considered for release and under what conditions.
The Court held that there had been a **violation of Article 3** of the Convention because the applicant had no prospect of release from or possibility of review of his life sentence. In particular, presidential clemency, the only procedure for mitigating life sentences in Ukraine, was not clearly formulated, nor did it have adequate procedural guarantees against abuse. Furthermore, life prisoners' conditions of detention in Ukraine made it impossible for them to progress towards rehabilitation and for the authorities to therefore carry out a genuine review of their sentence. Moreover, given the systemic nature of the problem, the Court held under **Article 46** (binding force and execution of judgments) of the Convention that Ukraine should reform its system of reviewing whole-life sentences by examining in every case whether continued detention was justified and by enabling whole-life prisoners to foresee what they had to do to be considered for release and under what conditions.

See also: **Kupinskyy v. Ukraine**, judgment of 10 November 2022.

Marcello Viola v. Italy (no. 2)

13 June 2019 (Chamber judgment)
The applicant, who was involved in a series of incidents between two rival Mafia clans from the mid-1980s until 1996, complained in particular that his life sentence was irreducible and afforded him no prospect of release on licence.
The Court held that there had been a **violation of Article 3** of the Convention. It reiterated in particular that human dignity lay at the very essence of the Convention system and that it was impermissible to deprive persons of their freedom without striving towards their rehabilitation and providing them with the chance to regain that freedom at some future date. Thus, the Court considered that the sentence of life imprisonment imposed on the applicant under section 4 bis of the Prison Administration Act (*ergastolo ostativo*) restricted his prospects for release and the possibility of review of his sentence to an excessive degree. Accordingly, his sentence could not be regarded as reducible for the purposes of Article 3 of the Convention. Under **Article 46** (binding force and execution of judgments) of the Convention, the Court further noted that the Contracting States enjoyed a wide margin of appreciation in deciding on the appropriate length of prison sentences, and that the mere fact that a life sentence might in practice be served in full did not mean that it was irreducible. Consequently, the possibility of review of life sentences entailed the possibility for the convicted person to apply for release but not necessarily to be released if he or she continued to pose a danger to society.

Dardanskiš v. Lithuania and 15 other applications

18 June 2019 (decision on the admissibility)
The applicants, who had all been sentenced to life imprisonment and were serving their sentences in Lithuania, all complained that, at the time they had brought their applications, Lithuanian law had not been amended to bring it in line with the European Court's case-law on life imprisonment. They submitted that their imprisonment for life amounted to inhuman and degrading treatment as they had no hope of release.
The Court **decided to strike the applications out of its list of cases**, pursuant to Article 37 (striking out applications) of the Convention, finding that the life-sentence commutation procedure and its requirements, as very recently adopted by the Lithuanian authorities[6], constituted an adequate and sufficient remedy for the applicants' complaint. It concluded that the matter giving rise to the complaint could therefore now be considered to be "resolved" within the meaning of Article 37 § 1 (b) of the Convention.

[6]. In March 2019 legislative changes regarding life prisoners were made to Lithuanian law, allowing a life sentence to be changed to a fixed-term sentence and the prisoner concerned to be released on parole. The legislation also set out the procedure to be used in order to amend sentences, as well as the criteria that a life prisoner has to meet in order to qualify. The explanatory report noted that the criteria to be met were strict, and only persons who had achieved a "considerable improvement" in respect of all the criteria could have his or her life sentence changed to a fixed-term sentence.

Finally, no particular reason relating to respect for human rights required the Court to continue its examination of the application under Article 37 § 1 *in fine*.

Horion v. Belgium

9 May 2023 (judgment)

The applicant in this case was detained since 1979 and had been sentenced to life imprisonment in 1981 for the murder of five people in connection with a robbery. He complained that his life sentence was irreducible *de facto*.

The Court held that there had been a **violation of Article 3** of the Convention in respect of the applicant, finding that the predicament in which he had found himself for several years owing to the practical impossibility of securing a place in a forensic psychiatric unit, although his detention in prison was no longer considered appropriate by the domestic authorities, meant that he currently had no realistic prospect of release, situation prohibited by Article 3 of the Convention. The Court noted in particular that, since January 2018, the psychiatric experts and the domestic courts had agreed that extending the applicant's detention in prison was no longer appropriate, either in terms of public safety or for the purposes of his rehabilitation and reintegration into society. They therefore recommended that the applicant be admitted to a forensic psychiatric unit as an intermediate stage before his possible release. As a result, the domestic courts refused to approve any other sentence adjustments such as limited detention or electronic surveillance, emphasising that the applicant's admission to a forensic psychiatric unit was an essential step in his reintegration into society. However, according to those same courts, the applicant's admission to such a unit "appear[ed] impossible in practice owing to funding issues", since the units in question received State subsidies only for persons in compulsory confinement and not for convicted persons like the applicant.

Further reading

See in particular:

- ECHR Knowledge Sharing platform (ECHR-KS), Transversal Themes, Prisoners' rights

Media Contact:
Tel.: +33 (0)3 90 21 42 08