

Conclusions of the summary report on the conditions of compensation and conditional release in the practice of penitentiary judges

In 2020, the Criminal Department of the Curia of Hungary carried out, with the involvement of external experts, a jurisprudence-analysis on the topic mentioned in the title.

In examining the conditions of compensation and conditional release, the jurisprudence-analysing working group explored and analysed the practice of penitentiary judges applying the laws.

The working group examined the practical application of Act No. CCXL of 2013 on the execution of criminal punishment, criminal measures, certain coercive measures and confinement in petty offence proceedings, namely the provisions governing the conditions of conditional release (section 188), compensation for placement conditions violating fundamental rights (sections 10/A and 10/B), compensation proceedings (sections 70/A and 70/B), the measures to be taken upon complaints about placement conditions violating fundamental rights and the review of relocation decisions (section 75/A). The working group examined 679 compensation cases and 387 cases of conditional release.

In the course of its work the working group examined the relevant decisions of the Curia of Hungary, the Constitutional Court of Hungary, and the European Court of Human Rights.

As to compensation for placement conditions violating fundamental rights, the working group has stated that it constitutes compensation for lawfully caused disadvantage. In respect of compensation for unlawful damage, no excuse is available.

Compensation awarded by the penitentiary judge, which was introduced on 1 January 2017 as an unprecedented legal instrument, has proved to be highly successful. The working group has found that success has been due to the facts that in penitentiary judge proceedings there are tight time limits, proceedings are instituted not *ex officio* but at the detainee's request, the decision-maker relies on data gained from the register of detainees, inadmissible and ill-founded cases are rejected without giving a decision on the merits, court secretaries may also proceed in compensation cases, in such proceedings the compensation to be awarded is determined within fair limits, no further compensation or grievance fee can be claimed (only before a civil court), hence this legal institution has achieved the legislative goal set out in the explanatory memorandum of the law having introduced it, namely it has created an effective compensatory remedy.