



**Impact of the COVID-19  
pandemic on non-custodial  
penalties and measures, on  
early release, post-release and  
probation services in Hungary**

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### Penal Reform International report

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## **List of abbreviations**

CC – Criminal Code

CCP – Code of Criminal Procedure

HPS – Hungarian Prison Service Headquarters

MoJ – Ministry of Justice

NOJ – National Office of the Judiciary

## Introduction

The legislative changes introduced in Hungary due to the COVID-19 pandemic were based on the state of danger declared by a government decree on 11 March 2020.<sup>1</sup> In relation to that, the Parliament adopted the so-called Authorisation Act on 30 March 2020.<sup>2</sup> That has given an unrestricted authorisation ('*carte blanche*') for the Hungarian Government for an indefinite period of time to suspend the application of certain acts, to derogate from certain provisions of acts and to take other extraordinary measures during the period of the state of danger. It was against that background that the legislative provisions relating to criminal justice and to alternative sanctions and other legal institutions concerned by the present research were adopted as a response to the corona virus pandemic.

From the declaration of the state of danger until 17 June 2020, while it lasted, the Government adopted more than 150 decrees within the legislative framework set by the Authorisation Act. These included legislative amendments concerning alternative sanctions and other legal institutions relevant for the subject matter of the present research, that practically resulted in derogations from certain provisions of the Act on the Execution of Punishments<sup>3</sup> (hereinafter: Prison Act) as laid down in the newly adopted legal acts. The newly adopted acts included Government Decree No. 90/2020. (IV.5.) amending certain rules concerning the execution of punishments related to the declaration of the state of danger<sup>4</sup> (hereinafter: Government Decree) with respect to the period between 6 April and 17 June 2020, and Act LVIII. of 2020 on the transitional rules related to the termination of the state of danger and on the epidemiological preparedness (hereinafter: Transitional Act) with respect to the period after 18 June 2020.

The state of danger was terminated on 17 June 2020, which, at the same time meant the repeal of the Authorisation Act and the 150 government decrees adopted during the special legal order. However, the Transitional Act entered into force on 18 June 2020, and it remains applicable at the time of writing of the present study and has modified the provisions on the derogatory application of the Code of Criminal Procedure<sup>5</sup> (hereinafter: CCP) and the Prison Act.<sup>6</sup> With repealing the Authorisation Act and adopting the Transitional Act, the practice of the Hungarian Government to govern by decrees remained essentially the same. The Transitional Act does include provisions that can be considered genuinely transitional and measures necessary due to the epidemiological situation, but it has also introduced amendments that jeopardise the exercise of fundamental

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<sup>1</sup> The state of danger was declared on 11 March 2020 by Government Decree No. 40/2020 (III.11.) and was terminated on 17 June 2020 by Government Decree No.282/2020 (VI.17.). That was the first state of danger declared by the Government following the outbreak of the corona virus pandemic.

<sup>2</sup> Act XII of 2020 on the Containment of the Coronavirus which was in force between 31 March 2020 and 17 June 2020.

<sup>3</sup> Act No. CCXL of 2013 on the Execution of Punishments, Measures, Certain Coercive Measures and Confinement for Petty Offences.

<sup>4</sup> Government Decree No. 90/2020 (IV.5.), Section 1.

<sup>5</sup> Act XC of 2017 on Criminal Procedure.

<sup>6</sup> Under Section 1 of Government Decree No. 330/2021 (VI.10.) on derogations from the criminal provisions of Act LVIII of 2020 on the transitional rules related to the termination of the state of danger and on the epidemiological preparedness, subtitles 76-82. of Act LVIII of 2020 on the transitional rules related to the termination of the state of danger and on the epidemiological preparedness, i. e. the rules providing on derogations from the Prison Act are effective until 31 December 2021.

rights or raise serious constitutional concerns.<sup>7</sup> The Prison Act had been applicable with the derogations laid down in the Transitional Act until 30 June 2021,<sup>8</sup> and later a government decree adopted on 10 June 2021<sup>9</sup> kept certain provisions of the Transitional Act in force – including those applicable to the Prison Act – until 31 December 2021.<sup>10</sup> Accordingly, that is still the law in force at the time of drafting the manuscript of the present study. The provisions of the amendments which are relevant for the subject matter of the present study concerning alternative sanctions and other legal institutions will be presented in Chapter Three.

A detailed overview of the legislative amendments adopted in Hungary since the outbreak of the corona virus pandemic and the declaration of the first state of danger<sup>11</sup> would go beyond the scope of the present study given that the subject of the current research is not a general presentation of the current situation of the Hungarian legislation and rule of law, but the impact of the COVID-19 pandemic on the use of alternative penalties and measures, on early release and post-release services and on probation services. However, it is important to emphasise the contextual aspect of legislation during the epidemiological situation: the changes brought about by the epidemiological situation raise serious concerns regarding the principles of the rule of law which may also have an indirect effect on the safeguards of criminal procedure. Those have been the subject of professional criticism raised by the Hungarian Helsinki Committee on multiple occasions in its detailed analyses available in Hungarian and English.<sup>12</sup>

## Research methodology

### Theoretical research and data analysis

The research intended to use mixed methods of data collection in order to gain a comprehensive understanding of the legal practice and law enforcement personnel's opinions on the situation. In addition to a survey on the legislative environment we have submitted freedom of information requests to the Ministry of Justice (hereinafter: MoJ) the central administrative organ of the judiciary, the National Office for the Judiciary (hereinafter: NOJ) regarding the legal institutions examined to obtain information on the relevant case-law. The MoJ responded to the request partially, while the NOJ completely refused to provide any data. Therefore, we contacted the county courts that adjudicate cases as courts of second instance, and exceptionally – in cases of major gravity – as courts of first instance, in hopes of receiving data regarding the respective counties. We received data from three out of twenty county courts. The public data published on the websites of courts could be used for the purposes of statistical analysis, however, these contained scarce information with respect to the legal institutions under investigation.

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<sup>7</sup> The note written by the Hungarian Helsinki Committee and three other Hungarian NGOs is available at: [www.helsinki.hu/wp-content/uploads/atmeneti-torveny\\_arnesty-ekint-helsinki-tasz.pdf](http://www.helsinki.hu/wp-content/uploads/atmeneti-torveny_arnesty-ekint-helsinki-tasz.pdf), and the analysis in English is available at: [www.helsinki.hu/wp-content/uploads/Transitional\\_Act\\_AIHU-EKINT-HCLU-HHC\\_30072020.pdf](http://www.helsinki.hu/wp-content/uploads/Transitional_Act_AIHU-EKINT-HCLU-HHC_30072020.pdf).

<sup>8</sup> Section 236(1) of the Transitional Act.

<sup>9</sup> Section 1 of Government Decree No. 330/2021. (VI.10.).

<sup>10</sup> Section 1 of Government Decree No. 330/2021 (VI.10.) on derogations from the criminal provisions of Act LVIII of 2020 on the transitional rules related to the termination of the state of danger and on the epidemiological preparedness.

<sup>11</sup> Including the declaration of two other states of danger and the so-called health emergency situation.

<sup>12</sup> The related notes and studies in English are available at: [www.helsinki.hu/wp-content/uploads/2021/03/AIHU\\_EKINT\\_HHC\\_UPR2021\\_Hungary\\_RoL\\_web.pdf](http://www.helsinki.hu/wp-content/uploads/2021/03/AIHU_EKINT_HHC_UPR2021_Hungary_RoL_web.pdf), [www.helsinki.hu/wp-content/uploads/2021/03/HUN\\_NGO\\_contribution\\_EC\\_RoL\\_Report\\_2021.pdf](http://www.helsinki.hu/wp-content/uploads/2021/03/HUN_NGO_contribution_EC_RoL_Report_2021.pdf), and [www.helsinki.hu/en/wp-content/uploads/sites/2/2021/09/HHC\\_Hungary\\_emergency\\_measures\\_overview\\_27092021.pdf](http://www.helsinki.hu/en/wp-content/uploads/sites/2/2021/09/HHC_Hungary_emergency_measures_overview_27092021.pdf).

Accordingly, only a small portion of national representative data is at our disposal, but some tendencies are, nevertheless, revealed by the available data. The conclusions of our research report are to be assessed in this light.

**Interviews and questionnaires**

In addition to the statistical analysis, we carried out semi-structured interviews with actors of the relevant procedures (i.e. attorneys, probation officers, correctional probation officers, judges) and former detainees and probation clients (see Table 1.). We also submitted interview requests to the NOJ and to the Hungarian Prison Service Headquarters (hereinafter: HPS) to interview judges and correctional probation officers. Since neither the NOJ nor the HPS was willing to provide interviewees officially, the number of judges and correctional probation officers as part of the research is limited.

Table 1: List of interviewees

POSITION / TITLE	NUMBER OF INTERVIEWEES
Attorney	6
Probation officer	3
Judge	2
Correctional probation officer	1
Probation client	3
Expert (academic researcher)	1
<b>Total</b>	<b>15</b>

The information gathered through interviews has been supplemented by an anonymous questionnaire sent to attorneys of the Budapest Bar and the 19 County Bars, within the framework of which seven attorneys responded to our questions. Thanks to probation officers and defense counsels, the data collection has a wide regional coverage. As such, we believe that the current research provides meaningful insights into the impact, consequent responses and legislative or practical changes and challenges the Hungarian system of non-custodial sanctions and measures faced as a result of the COVID-19 pandemic.

## The Hungarian Probation System

In Hungary, the probation system was restructured in 2014. The main objective of the structural change was to increase the efficiency of probation tasks. From 1 October 2014, all prison-related probation activities as well as methodological supervision and supporting legislation were separated from the general probation service. While the general probation service is under the responsibility of the Ministry of Justice, correctional probation service – that takes place during imprisonment and after release – falls under the HPS as *the correctional probation supervision unit*. The correctional probation officer is a civilian, non-uniformed prison personnel. Tasks under the general probation service cover providing support and supervision of the execution of alternative sentences, while tasks of the correctional probation service cover the preparation of inmates for release, supporting judges' decisions on conditional release and reintegration custody, supervision of released inmates and ex-inmates under measures such as conditional release and reintegration custody.

### Legislative amendments and measures affecting the work of courts, probation officers and correctional probation officers with regard to the COVID-19 pandemic

In general, the legislative amendments to the Criminal Code<sup>13</sup> (hereinafter: CC), the CCP, and the Prison Act, which entered into force following the declaration of the first state of danger as a response to the epidemiological situation, did not transform the system of penalties and measures, did not introduce more lenient, alternative sanctions with respect to the pandemic, nor any other rules aiming at the early release of detainees or applying more lenient penalties to them for the protection of detainees or the prison staff. None of the rules introduced as a reaction to the pandemic responded specifically to the needs of vulnerable groups or groups with protected attributes, instead focusing on issues concerning criminal procedure and statutory provisions for specific offences. The relevant changes of the Criminal Code, which concern mainly the execution of sentences, are described below.

Although statistical data from 2020 and 2021 on the application of alternative sanctions are not available, data on the number of detainees kept in penitentiary institutions in the years before the pandemic and in 2020 reflect that the number of detainees in penitentiary institutions practically did not change in spite of the pandemic (see Table 2.) At the end of the period of the first state of danger, there were more detainees than on the last day of 2019.

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<sup>13</sup> Act C of 2012 on the Criminal Code.



Table 2: Persons in detention

COUNT DATE	NUMBER OF PERSONS DETAINED IN PENITENTIARY INSTITUTIONS
31 December 2018	16,303
31 December 2019	16,334
15 April 2020 – During the first state of danger	16,560
18 June 2020 – the day following the termination of the first state of danger	16,576

Source: Hungarian Prison Service Headquarters

The provisions of the state of danger amended already existing non-essential rules concerning the application and execution of sanctions and legal institutions examined in the present research. The most important changes related to the subject of the research are presented below.

### **Amendments introduced with respect to alternative penalties and measures**

From 5 April 2020 till 31 May 2020 community service and reparation work were not executed,<sup>14</sup> and the already commenced execution of community service and reparation work had to be suspended.<sup>15</sup> An amendment of the Government Decree ordered the continuation of the execution of formerly suspended community service and reparation work from 1 June 2020,<sup>16</sup> and it provided certain facilitations with respect to both legal institutions concerning the certificate of performance and the applicable procedural deadlines.

The Transitional Act also ordered the continuation of the execution of community work that had been suspended due to the state of danger, except for cases when execution was hindered by epidemiological measures affecting the designated place of work or the convicted person or by any other reason related to the situation of crisis, in which case the execution had to be continued after the obstacle was resolved.<sup>17</sup> If the designated place of work was dissolved in the meantime, or if it did not wish to employ the convicted person anymore, the probation officer had to designate a new work place.<sup>18</sup> In addition to that, the Transitional Act extended the deadlines concerning community work set out by the Prison Act with 30 days.<sup>19</sup> The Transitional Act

<sup>14</sup> Section 1(2) of Government Decree No. 90/2020 (IV.5.). Section 1(2) was repealed as of 1 June 2020, the amendment of the Decree in force from 1 June 2020 ordered the execution of community service and reparation work that had already commenced but was interrupted to be continued.

<sup>15</sup> Section 1(3) of Government Decree No. 90/2020 (IV.5.). An exception to that rule was the procedure for the transformation of community service to imprisonment in cases where the circumstances giving rise to such transformation had occurred already before the entry into force of the Decree. Section 1(3) was repealed as of 1 June 2020.

<sup>16</sup> Section 14(1) of Government Decree No. 90/2020 (IV.5.) applicable as of 1 June 2020. Sections 14(1)-(3) of the Government Decree and its Section 15 applicable as of 1 June 2020 contained further provisions of the continuation of the execution of community service.

<sup>17</sup> Sections 239(1) and (2) of the Transitional Act.

<sup>18</sup> Section 239(3) of the Transitional Act. Section 239(3) adds that if designation of a new workplace requires that a new expert's opinion on the suitability for employment be obtained, the deadline for designation shall be extended with 30 days.

<sup>19</sup> Section 239 (4) of the Transitional Act. Under Section 239(4) the deadline for submitting an appeal is exempt from the extensions of deadlines of the Prison Act. In addition, Section 239(5) of the Transitional Act provides that the periods of postponement or interruption of the execution of community work with respect to the state of danger, and the period of epidemiological measures or any other measure ordered in relation to the situation of health crisis, provided that they hinder execution, shall not be taken into account for the calculation of the deadline set out in Section 280(5) of the Prison Act. Under Section 280(5) of the Prison Act, community work shall be executed within two years from the final decision designating the first place of work. In case the convicted person does not perform community work within two years for a reason imputable to him or

introduced facilitations concerning the deadlines of performing reparation work and of the certification of performance. The deadline for the certification of the performance of work laid down in the Prison Act, set originally in one year from the date on which the decision ordering the work becomes final,<sup>20</sup> was extended by 90 days.<sup>21</sup> That extended deadline shall be further extended by an additional 90 days if the execution of community work is hindered by epidemiological measures or any other reason related to the situation of crisis.<sup>22</sup> This amendment did not have an impact on sentence length.

### **Amendments concerning the tasks of probation officers**

According to the provisions of the Government Decree, the opinion and the risk and needs assessment by the probation officer was to be obtained or prepared only if absolutely necessary. Preparing and obtaining such opinions and assessments could be omitted even in cases where preparing or obtaining these documents was otherwise mandatory under the Prison Act. In cases where preparing and obtaining the opinion or the risk and needs assessment of the probation officer was absolutely necessary,<sup>23</sup> the probation officer or the prison probation officer had to avoid personal contacts during the procedure and deliver the opinion or the assessment on the basis of documentation available, and data accessible by means of telephone or electronic communication.<sup>24</sup>

Under a provision applicable from 1 June 2020<sup>25</sup> and affirmed by the Transitional Act,<sup>26</sup> the probation officer's opinion or the risk and needs assessment, as a general rule, must be prepared on the basis of information gathered through personal contact. In cases where the personal contact is hindered by the state of danger or an epidemiological measure ordered during the state of danger, the probation officer's opinion or the risk and needs assessment may be drawn up on the basis of available documentation, and data accessible by means of telephone or electronic communication.

The Government Decree introduced the general rule under which tasks related to supervision of probation (such as contacting the person supervised by the probation officer, giving information, supervising his or her behavior, pursuit of studies, and conduct at workplace or residence, or lifestyle) both by probation and prison probation officers are to be carried out primarily *via* contacts by telephone or electronic means, including e-mails.<sup>27</sup> The Government Decree obliged the persons supervised by the probation officer, too, to contact the probation officer or prison probation officer by telephone or electronic means. From 1 June 2021 personal contact became once again the general rule.<sup>28</sup> Contacts by means of telephone or electronic communication are

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her, the probation officer shall prepare a report and shall initiate filing a motion for the transformation of community work to imprisonment with the competent prosecutor's office under Section 290(2) of the Prison Act.

<sup>20</sup> Section 309(1) of the Prison Act.

<sup>21</sup> Section 240(1) of the Transitional Act.

<sup>22</sup> Section 240(2) of the Transitional Act. The modification of the Decree as of 1 June 2020.

<sup>23</sup> The law itself did not define what the term "absolutely necessary" meant, nor was it included in its reasoning.

<sup>24</sup> Section 1(8) of Government Decree No. 90/2020 (IV.5.) effective from 6 April till 31 May 2020.

<sup>25</sup> Section 1(8) of Government Decree No. 90/2020 (IV.5.) effective from 1 June till 17 June 2020.

<sup>26</sup> Section 236(8) of the Transitional Act.

<sup>27</sup> Section 6(1) of Government Decree No. 90/2020 (IV.5.) effective from 6 April till 31 May 2020. Section 6(1) was repealed as of 1 June 2020.

<sup>28</sup> Section 6(2) of Government Decree No. 90/2020 (IV.5.) effective from 6 April till 31 May 2020. Section 6(2) was repealed as of 1 June 2020.

allowed only in cases where the personal contact is hindered by the state of danger or an epidemiological measure ordered during the state of danger,<sup>29</sup> and the same applies to the persons supervised.<sup>30</sup> These rules were affirmed by the relevant provisions of the Transitional Act.<sup>31</sup>

### **Amendments concerning the tasks of correctional probation officers and judges responsible for legal institutions used for the mitigation of penalties involving deprivation of liberty (reintegration custody, release on parole)**

Under the Government Decree, the checks of the infrastructure and technical conditions of reintegration custody (whether the electronic device for remote surveillance can be installed in the apartment where the convict is to spend custody) had to be carried out by the prison probation officer on the basis of available documents and by means of telephone contacts and electronic communication. If reintegration custody was ordered, but it turned out that the electronic device for remote surveillance could not be installed, an individual was not placed in reintegration custody.<sup>32</sup> In such cases, the individual stayed in prison and could not use the alternative measure, despite of the positive decision.

Under the Government Decree the penitentiary judge was restricted to make decisions only in certain penitentiary judicial procedures<sup>33</sup> regulated by the Prison Act in the period between 6 April 2020 and 31 May 2020,<sup>34</sup> namely in the penitentiary judicial procedures (which can be found in and regulated under the Prison Act) listed in the Government Decree. In procedures not listed, the judge had to suspend the procedure and there was no appeal against this decision.

Among the procedures affected the following are relevant for the present research: release on parole,<sup>35</sup> ordering and termination of reintegration custody,<sup>36</sup> and the placing under and termination of probationary supervision.<sup>37</sup> In these cases the penitentiary judge had to carry out the hearing of the convict by means of telecommunication, as a general rule, and the penitentiary judge was authorised to make decisions on the basis of documents.<sup>38</sup>

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<sup>29</sup> Section 6(1) of Government Decree No. 90/2020 (IV.5.) effective from 1 June till 17 June 2020.

<sup>30</sup> Section 6(2) of Government Decree No. 90/2020 (IV.5.) effective from 1 June till 17 June 2020.

<sup>31</sup> Sections 241(1) and (2) of the Transitional Act.

<sup>32</sup> Section 1(9) of Government Decree No. 90/2020 (IV.5.) effective from 6 April till 31 May 2020. Section 1(9) was repealed as of 1 June 2020.

<sup>33</sup> Procedures under Sections 52-75/A of the Prison Act.

<sup>34</sup> Section 2(3) of Government Decree No. 90/2020 (IV.5.) effective from 6 April till 31 May 2020. Section 2(3) was repealed as of 1 June 2020.

<sup>35</sup> Government Decree No. 90/2020 (IV.5.), Section 2(3), point c).

<sup>36</sup> Government Decree No. 90/2020 (IV.5.), Section 2(3), point e).

<sup>37</sup> Government Decree No. 90/2020 (IV.5.), Section 2(3), point j).

<sup>38</sup> Since 1 January 2021, under point e) of Section 50(1) of the Prison Act, if the convict is in detention, the penitentiary judge shall hold a hearing or court hearing by means of telecommunication devices or in the penitentiary institution. Following the outbreak of the corona virus pandemic, under point b) of Section 2(4) of the Government Decree, the penitentiary judge was authorised to make decision on the basis of documents; under point c) of Section 2(4) of the Government Decree, the participation of the convict at hearings by penitentiary judges was to be ensured primarily by means of telecommunication devices. Following the repeal of the Government Decree, Section 236(6) of the Transitional Act, which entered into force on 18 June 2020, basically repeated that provision of the Government Decree only with slight modifications, substantially with the same wording. That is the effective rule till 31 December 2021.

## The effect of the pandemic on alternative penalties and measures not involving deprivation of liberty

Judges and defense counsels interviewed accounted that the first reaction to the Government Decree was a perception according to which „*criminal justice has come to a halt*”, and the transition in the practice of the courts regarding the newly adopted regulations was slow. Less grave crimes – practically criminal offences punishable by not more than five years of imprisonment – were attempted to be adjudicated by a penalty order.<sup>39</sup> In the view of the interviewed persons, courts aimed at proposing penalties that are acceptable for both the defense and the prosecution, thus minimising the number of hearings; there was a tendency in the practice of courts to deliver judgments without hearing. In these cases, that tendency might have resulted in more lenient judgements; however, statistics concerning the judgements delivered in the year 2020 are not yet available to confirm that assumption. The lapse of time, as such, is to be assessed as a mitigating circumstance,<sup>40</sup> and the postponement of hearings due to the epidemiological situation in case of criminal offences of less gravity, such as misdemeanors, may result in imposition of much more lenient penalties.

In case of detained defendants, procedural events – such as hearings – were held by means of Skype.<sup>41</sup> According to the attorneys, that was a more efficient solution than personal hearings held among precautionary measures at a later stage of the epidemiological situation; the problems related to the latter will be explained in the next paragraph. On the other hand, when other actors were involved in the procedure (such as aggrieved parties, witnesses, defendants at large), court practitioners were of the view that remote hearings would raise concerns, because – as opposed to the controlled environment of the penitentiary – procedural safeguards of these other actors might be violated during the procedure. The judge cannot control the exact circumstances under which the person heard makes statements. However, in their experience, the practice of the court was not uniform in that respect, as there were judges who carried out hearings of aggrieved parties, witnesses and defendants at large by means of telecommunication.

By autumn 2020, court rooms had been equipped with plexiglass walls throughout the country as a response to the epidemiological situation and the protocol on precautionary measures for protection against the pandemic was adopted. From that time on, judges had a margin of discretion whether they decided on postponing the hearing or holding it applying the necessary precautionary measures. The plexiglass walls in court rooms and the obligatory wearing of masks

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<sup>39</sup> Chapter C. of the CCP : The penalty order is based on the idea that the court, on a motion from the prosecution or based on its *ex officio* proceedings, in case of criminal offences punishable with no more than three years of imprisonment, may issue a penalty order without a hearing in the case on the basis of case documents, provided that the assessment of the case is simple, the accused person is at large or detained in an another criminal case, and the aim of punishment may be attained without a hearing. In cases of criminal offences punishable with no more than five years of imprisonment, the court shall issue a penalty order provided that the former conditions are fulfilled, and the accused person confessed the commission of the criminal offence.

<sup>40</sup> Opinion BK No. 56 on certain factors to be assessed when imposing penalties, point III.10.

<sup>41</sup> Under Chapter XX of the CCP (Sections 120-126) the use of telecommunications equipment has become one of the tools to ensure presence at procedural events. Under Section 121(1) of the CCP, the court, the prosecution or the investigating authority may *ex officio* or on request from the person obliged or authorised to be present at the procedural event, order the use of telecommunication devices. After 11 March 2020, following the declaration of the first state of danger, the CCP had to be applied with the derogations laid down in Government Decree No. 74/2020 (III.31.) on certain procedural measures effective during the state of danger ('Veir.'). Under that Decree, if the physical presence at the procedural event would have resulted in breaching epidemiological rules, the procedural event had to be postponed as a general rule. In case postponement was not possible, presence at the procedural event was to be ensured by means of telecommunication devices.

made communication very difficult in the view of defense counsels. The judge was isolated from every other person, the prosecutor from the defense counsel and the judge. The other actors of the proceedings had to be listened to from behind a double plexiglass wall. Only the defendant was not barred from any direction.

As one defense counsel said:

*“Light was reflected on the plexiglass; we could not see each other. Masks made listening and understanding difficult. A travesty. We spoke in an artificial manner as if everyone was a complete idiot. We kept asking whether we understood correctly [what had been said].”*

Although the holding of in-person hearings was authorised again from autumn 2020, remote hearings remained typical in cases of detained defendants. In the view of the practitioners interviewed, the practice of the courts is not uniform with respect to what extent electronic communication means are used. It is typical of certain senior judges to rather summon the defendant from the penitentiary institution despite the possibility of remote hearing.

In the view of the defense counsels, remote hearings have their pros and cons. Work is facilitated in particular by the fact that there is no need to overcome physical distance neither by the defense counsel nor by the penitentiary institution by transportation to the court hearing (i.e. the detainee does not need to be transported). This advantage is mostly significant in cases of minor gravity and in cases of second instance procedures, because the safeguarding of the principle of immediacy is considered more important in cases of greater gravity and at first instance hearings. In case of a remote hearing the state of the defendant is less perceptible for both the defense counsel and the judge, and the significance of the communicated information and of the reactions is different. The judges interviewed were satisfied with remote hearings. Existing technical conditions enable connection of even two penitentiary institutions at the same time to the same remote hearing.

The representatives of both groups of legal professionals are of the view that it would be appropriate to maintain remote hearing tools for certain procedural events even after the termination of the special epidemiological situation. They especially referred to the advantages of remote hearings in case of hearing defendants from abroad; such hearings are possible to be carried out while procedural safeguards are observed and conditions are controlled: witnesses are heard in a foreign police or court building. The only technical challenge they mention is that rooms for the purposes of remote hearings are scarce in penitentiary institutions, and the same room is used by the prosecution, the hearing judge, the penitentiary judge, the investigating judge, and the police.

In addition, both judges and attorneys drew attention to the fact that procedural safeguards may be violated as the possibility for private discussions between the defendant and the defense counsel is much more limited during and after remote hearings as compared to hearings in person. The judge usually offers the opportunity for private discussions and leaves the conversation, but defense counsels typically do not trust that the discussion is actually not being recorded. Moreover, in most cases there is a guard or reintegration officer present in the same room with

the defendant in detention. Accordingly, the standard means for discussions between the defense counsel and the defendant is calling on the phone. Experience shows that judges offer the opportunity for that too, and for that duration, the remote hearing is paused. That may lead to a discriminatory practice in case of the most deprived defendants, for whom a mobile phone in the penitentiary institution is not available,<sup>42</sup> and thus they have only limited opportunity for keeping in touch with their defense counsel by phone.

The defense counsels claimed that in their defense pleadings they referred to the COVID-19 pandemic as a mitigating factor, and in certain cases judges took it into consideration whether the epidemiological situation was relevant in committing the criminal offence (for example if someone committed a criminal offence against property because his or her financial situation became unstable due to the epidemiological situation); or they considered what the imposition of an alternative penalty (such as a fine) would result in the situation of the individual being sentenced (for example if he or she did not have an income due to the pandemic, the judge did not impose a fine).

According to the experience of probation officers, the COVID-19 pandemic did not affect the imposition of alternative penalties or measures; alternative sanctions were imposed practically in the same proportion as in previous years. The pandemic affected their execution. Data concerning the work of probation officers demonstrate that the execution of imposed penalties of community work and imposed measures of reparation work had to be suspended in many cases. In a great number of cases in the period between 6 April 2020 and 30 June 2020 the execution of commenced community work and reparation work had to be suspended. (See Table 3.)

Table 3: Impact of the COVID-19 pandemic on the execution of community work and reparation work

	SUSPENSION OF THE EXECUTION OF IMPOSED ALTERNATIVE SANCTIONS	SUSPENSION OF ALTERNATIVE SANCTIONS ALREADY COMMENCED
Community work	872	27,231
Reparation work	10	146

Source: MoJ

The MoJ had no exact data available on the execution of penalties suspended due to the state of danger, but it confirmed that the suspended penalties were executed after 1 June 2020. As we have already explained in the chapter on relevant legislative amendments (from page 9.), courts continued to take into consideration if performance was hindered due to health reasons. In some cases, workplaces designated for community work did not agree to employ individuals under non-custodial sanctions during the pandemic. In such cases, new workplaces were designated. Between 18 June 2020 and 19 April 2021 new workplaces had to be designated in a total number

<sup>42</sup> Detainees may use mobile phones with pre-paid cards provided by the penitentiary institution for making phone calls. A deposit of 35 thousand HUF (EUR 100) must be paid for the phones. The phones cannot be called back, and prisoners may call only the numbers of officially recorded contact persons. Phone calls with the defense counsel have the same pricing, but the duration of call is not limited. Detainees in less favorable financial situation who do not have their 'own' prison mobile, are allowed to use the wall mounted telephones available in the institution for a limited duration.

of 140 cases country-wide. That is a very low number compared to the more than 27,000 cases of imposed community work commenced and suspended in that same period; a significant number of employers continued to employ probation clients during the pandemic when allowed by law.

On the basis of experience of probation officers, the suspension of community work had adverse effects on both employees and employers: they would have wanted to get over with the execution of the mandated work. The execution of interrupted community work also placed extra burdens on probation officers. As a corollary of the pandemic, they noted that – in order to replace dropout employers – new workplaces had to be designated, often with employers with whom they had not had contact before. On the positive side, these workplaces will probably welcome community workers even after the COVID-19 pandemic.

# Impact of the pandemic on the Probation Service and Correctional Probation Service

Data from the MoJ on probation service with respect to years 2020 and 2021, that were affected by COVID-19, suggest that probation services worked with a somewhat lower number of pending cases in 2020 than in the previous two years and practically the same number of staff. Accordingly, the total workload decreased. (See Table 4.)

Table 4: Caseload of probation officers 2018-2020

Year	ONGOING CASES	NUMBER OF PROBATION OFFICERS
2018	93,565	350-400
2019	86,962	350-400
2020	75,252	348 (on 31 December 2020)

Source: MoJ

The experiences of probation officers were different as to what extent they refrained from personal contacts during the state of danger. According to the interviewed officers, probation officers were provided with smart phones, which facilitated contacts by means of telecommunication to a great extent. One interviewee mentioned, however, that they cannot communicate properly on the phone, and a reliable risk and needs assessment cannot be prepared based on remote communication. In several counties, on-site visits were conducted during the pandemic, in masks and with sanitiser, for the purposes of necessary risk and needs assessments, and clients were also at times received in offices. In general, it is safe to say that in the first wave of the pandemic, when the Government Decree was in effect, communication by telecommunication means was typical, while during the second wave, in autumn 2020, it’s use was mixed. By the third wave in the spring of 2021, personal contacts were almost fully restored. As several probation officers said in the interviews:

*“In case of a risk and needs assessment, it is a basic principle that one has to meet the perpetrator. If he or she is a juvenile, one must speak to at least one of the parents, [...], with the teacher, home room teacher, the case officer from the family support service. A probation officer must meet all of them to prepare a well-founded risk and needs assessment. That involves making on-site visits. That used to be quite difficult during the COVID [pandemic], but we were resilient, we went to the sites in masks equipped with sanitiser. We did not enter apartments, or inner rooms, but we went to the site and took a look at the building from outside at least. Because it is very telling where the given person lives. We could have a look at the place only from across the fence, but when there is no glass in the window frame, and there is just a blanket put up there, that tells a lot [...] we tried not to skip these.”*

*Officer1*



*“We did not even notice that there was a third wave. We kept using sanitisers, airing the rooms, and asked clients to sanitise their hands. We were happy if masks were worn. You cannot do any supervision without any personal contact.”*

*Officer 2*

*“We got used to this kind of electronic world, and the second wave was last autumn, and later in spring was the time when we felt that we had had enough of this [...] you see many things on-site with personal contacts in a completely different way. And we did not get rid of these personal contacts [...] We made on-site visits and personal contacts possible for those who wanted [them]. However, those who were afraid or worried for themselves [...] were allowed to keep in touch with people and make checks only by electronic means. So we handled the matter with the greatest possible flexibility.”*

*Officer 1*

All in all, probation officers concluded during the pandemic that in their work personal contacts and checks are essential with the supervised persons. The possibility of contact by electronic means, at the same time, made organisational and administrative procedures easier with the organs and institutions involved in supervision, such as local municipalities as community employers. The latter procedures became faster, and probation officers hope that these have gotten simpler on the long run too. The faced challenges and shifts in communication also opened avenues towards new partners, too – for example, in cases of supervised juveniles, information had to be sought from schools due to lack of a direct contact. Such new or closer co-operations are seen as the benefits of the pandemic.

## Impact of the pandemic on early release and post-release services

According to data received from county courts, statistics on decisions on release on parole reveal a clear tendency toward a significant decrease in the number of positive decisions on release on parole by all three county courts in the year 2020. That tendency is more moderate in a single county court – in comparison to the previous two years there is a decrease by 1/3 in the number of persons released on parole – and in one court the drop is radical – in comparison to the previous two years, ordering releases decreased by more than half of the previous number. In two of the county courts, not a single individual was released on parole in 2020. (See Table 5.)

Table 5: Releases on parole

County Court	NUMBER OF PERSONS RELEASED ON PAROLE				
	2017	2018	2019	2020	1 January – 30 June 2021
County Court of Gyula	29	35	27	0	0
County Court of Debrecen	41	61	72	0	No data
County Court of Kaposvár	36	48	46	30	19
Metropolitan County Court	601	534	439	198	94

Source: County Courts of Gyula, Debrecen, Kaposvár; Metropolitan County Court

It is important to compare this information with the national data that demonstrate that no such tendency can be revealed in the number of requests filed with penitentiary judges for ordering release on parole and ordering probationary supervision of persons released on parole; the number of requests for release on parole submitted to county courts was not significantly less in 2020 than in previous years (see Table 6.). Thus, the reason for a decrease in the number of releases on parole by the county courts seen in 2020 most probably does not lie in the lower number of requests.

Table 6: Number of requests for ordering release on parole and ordering probationary supervision of persons released on parole by county courts

YEAR	NUMBER OF CASES IN COUNTY COURTS (country-wide)
2018	6,494
2019	6,222
2020	5,705

Source: [birosag.hu](http://birosag.hu)

Data provided by county courts show a similar tendency with respect to ordering reintegration custody: there is a significant decrease in the number of persons put in reintegration custody in all

the three counties in the year 2020, although to a different extent. In two counties that tendency had begun earlier, while in the capital the change can be clearly linked to the first year of the pandemic. (See: Table 7.)

Table 7: Use of reintegration custody

County Court	NUMBER OF PERSONS RELEASED ON PAROLE				
	2017	2018	2019	2020	1 January – 30 June 2021
County Court of Gyula	6	5	3	0	0
County Court of Debrecen	12	11	8	0	0
County Court of Kaposvár	43	18	5	6	0
Metropolitan County Court	53	30	46	39	9

Source: County Courts of Gyula, Debrecen, Kaposvár; Metropolitan County Court

Related national data show that there is no change in the number of requests filed with penitentiary judges for the ordering of reintegration custody for the year 2020 as compared to previous years. (See Table 8.) In the county courts examined, the explanation for a decrease in the number of reintegration custodies granted in 2020 is, very likely, not the lower number of requests submitted by detainees.

Table 8: Number of requests for ordering reintegration custody

YEAR	NUMBER OF CASES IN COUNTY COURTS (country-wide)
2018	1,538
2019	1,532
2020	1,525

Source: [birosag.hu](http://birosag.hu)

The significant decrease in the number of persons released on parole and those placed in reintegration custody revealed by the statistics from the county courts confirms the experience expressed by defense counsels and judges that court proceedings practically stalled between March 2020 and autumn 2020, although judges were authorised under relevant laws to decide on both release on parole and reintegration custody on the basis of remote hearings. Based on these data, it seems probable that there was a downturn in the decisions of penitentiary judges on release on parole and reintegration custody based on case file documents and remote hearings.

In the opinion of a correctional probation officer, the pandemic rendered a part of their professional work nearly impossible, specifically those services aimed at the preparation of detained individuals for release and post-release support (i.e. personal work with the detainees). One of the

correctional probation officers considered that the preparation of a risk and needs assessment on the phone is a task that cannot be carried out in decent quality. In the officer's experience, it was difficult to maintain contacts on the phone with individuals in reintegration custody and released on parole:

*"We have lost a great number of people [because of having to rely on phone contact]. It was more difficult for them to check-in on the phone than in person. It did not carry such had no such gravity; Probation supervision lost its significance. If the person disappeared, I could not check [on him/her], because I could not go [to his/her] home. I was bereft of means. I could not even write any proposals to the law enforcement prosecutor, as their hands were tied, too, due to COVID-19."*

*Correctional probation officer*

In the correctional probation officer's view, more people re-offended than before the pandemic but this is not due to a weaker control by probation officers, but rather a result of general vulnerabilities that put strains on persons released from penitentiary institutions, both in financial and in emotional terms. Although under the relevant regulation communication was mandatorily done by means of telecommunication only from 6 April 2020, on-site visits with clients had stopped from the beginning of March. Between March 2020 and June 2021, the probation officer had 25-30 cases in which he was required to draw-up a risk and needs assessment based on communication on the phone for the purposes of authorising reintegration custody. In such cases the pictures of the accommodation that was the intended place of the reintegration custody were requested through electronic chat applications (Messenger, WhatsApp, Viber). That was necessary also because many of the supervised persons do not use e-mail. Persons in reintegration custody were also checked in on by phone. According to the interviewees, some kind of communication applications, either on their phone or the internet, were available for most supervised persons.

After 1 June 2020, personal contacts could be re-established with clients except for older or ill persons deemed at heightened risk of contracting COVID-19. Basically, clients completing reintegration custody had to return to the penitentiary institution to be released. In case somebody contracted COVID-19 during reintegration, he or she could not go back to the penitentiary institution to be released, but it was the correctional probation officer who went to the released person's home to take off the electronic tracker. During the second wave of the pandemic, from November 2020 till summer 2021, unlike general probation officers, correctional probation officers had to suspend personal contacts with clients once again. This had an adverse effect on personal supervision. At the same time, thanks to freed capacities, they could spend more time with individuals who remained in detention, and there was more time for getting prepared for release from prison. Making use of that time, they introduced new programmes, such as group activities for the improvement of social skills, or took detainees to the library for which, according to reports from the persons concerned, there had otherwise been no opportunity. An online drug prevention program was also launched. These were the benefits of the epidemiological situation. Moreover, by re-allocating freed up capacities they assisted reintegration officers in prison, who faced an extra workload. Correctional probation officers assisted reintegration staff

by, for example, coordinating Skype-calls, which was the only means of contact between detained individuals and their family members, beside telephone calls and correspondence via mail.

A detained person placed in reintegration custody reported that the already lengthy bureaucratic procedures became even longer during the pandemic. In this individual's case this resulted in two more months spent in a penitentiary institution because of a mistake in registering the crime of fraud as a criminal offence against life, for which no reintegration custody can be granted. Consequently, the request to be placed in reintegration custody was rejected, and it took two months to correct the mistake.

The prison probation officers and the persons concerned confirmed that under the legal provisions in effect at that time, it was not possible to draw up risk and needs assessments in person, nor to check and ensure the technical conditions of reintegration custody during the pandemic. This entailed several practical problems. Problems concerning the electronic monitoring system of ankle tags had been reported even before the COVID-19 pandemic. The risk and needs assessment should include a part describing the premises of the place of accommodation in detail. Due to the fact that no personal field surveys of apartments could be carried out and technical equipment could not be adequately set, these problems intensified. Very often the ankle tag falsely alerted that the subject left reintegration custody, even while at home. There was a case when the tag identified a certain part of the apartment as 'prohibited zone':

*"Normally, the correctional probation officer paid a visit twice a month to check the ankle tag and the charger. They did not come because of the pandemic. Often, there is no signal, or there is a false alarm. In such a case the penitentiary institution calls me even in the middle of the night, and I must immediately go to the street to have signal again so they can make sure that I am indeed at home."*

*Sentenced individual 1*

*"There was a case when I was heading for a medical check-up with the medical document certified by the penitentiary judge, and the penitentiary called me to ask where I was. They instructed me to go home. There was a case when I was reprimanded in writing for being in the hospital for treatment. These could happen because the communication documents among correctional probation officer, the penitentiary judge and the law-enforcement officials is very slow: a decision brought by the penitentiary judge is seen by the correctional probation officer only days later."*

*Sentenced individual 2*

As in any other procedure, hearings by a judge for the purposes of deciding on reintegration custody were organised as remote hearings from 6 April 2020. Individuals placed in reintegration custody had a positive opinion on that: the judge was easy to see and hear. However, the detainee was heard in the presence of the reintegration officer of the prison which is questionable from the view of procedural safeguards. The reintegration officer, too, was heard in the same hearing, in the presence of the detainee, regardless of whether he or she supported the request for placement in reintegration custody. The penitentiary judge decided and communicated the decision at the remote hearing.

## Impact of the pandemic on vulnerable individuals

Probation officers reported that there are only a very few clients with a stable financial background among adult supervised persons, and a significant number of supervised persons belong to some disadvantaged, marginalised or vulnerable group: persons living in extreme poverty, Roma, or those in situations of homelessness. Even those supervised persons who work and can be seen as having the highest status typically belong to the section of society with low levels of education and working as semiskilled workers. For them both community work and fines are burdensome, as they can hardly afford to be absent from work even for a few weeks and they do not have financial reserves.

It is important to mention that the general problems concerning the circumstances of detention are normally already burdensome for individuals from disadvantaged or vulnerable backgrounds, with special regard to sentenced individuals with no or limited financial means or literacy and those with health problems. . The distance between the penitentiary institution and the individual's residence is very often several hundreds of kilometers, which makes it impossible for family members and detained persons experiencing poverty to maintain personal contacts. Phone calls, due to high tariffs (about four times as high as tariffs for the general population) are available only to a very limited extent or not at all for those without financial means. These circumstances made access to communication discriminatory with respect to certain vulnerable individuals or groups during the special epidemiological situation, and their right to contacts with their family members or their defense counsels were heavily restricted.

Serious problems were mentioned by detainees with relation to a staff shortage (which was close to 12% in 2020, with more than 1200 vacancies in penitentiary institutions nationwide), overcrowding and the condition of cells, toilets and sanitary units, the presence of bedbugs, limited access to consultations with and treatments by medical specialists, and problems with medicine supplies. Such problems affect all individuals in detention, but they had more adverse effect on persons with health problems and chronic diseases.

New alternative sanctions being absent, and the existing alternatives and early release being underused, the epidemiological situation placed a significant additional burden on prison staff, most probably intensified the already existing, systemic problems and forced already vulnerable, less empowered individuals to an even more difficult situation. The persons concerned – formerly incarcerated individuals – confirm this hypothesis.

Since 2017, Hungary has very limited reporting on detention conditions. The Ombudspersons' office functions officially as an NPM – they are the only entity permitted to enter prisons with monitoring purposes – but their monitoring appears merely formal rather than comprehensive and inclusive of detainees' perspectives. This makes broader reporting on the noted problems challenging.

A person concerned who contracted COVID-19 in a penitentiary institution spent five weeks in a hospital and subsequently four weeks in isolation:

*“During isolation they opened the door only when they gave us food. It happened that we were not given any food for a day. We met the educator once a week. The educator looked in and asked if there was someone who wanted to commit suicide. We did not get any other kind of support as COVID-infected persons.”*

During that time, proceedings concerning alteration of prison regimes, release on parole or to reintegration custody could not proceed. That increased the duration of their detention even by months or prevented them from being subject to more lenient prison rules.

A detained individual suffering from diabetes reported a skin disease of neuropathic foot, related to the chronic illness, developed during the restrictive measures and could not be treated in a timely manner:

*“The reappearance of my disease is related to the fact that I was not allowed to take off my boots during the whole day. It took one and a half months for me to get the cream prescribed by the medical specialist, the procedure got almost irreversible. The way of the medicine was so long because the medical prescription from home had to be approved by the in-house physician, its ingredients checked one-by-one (whether it contains any ingredient unauthorised in the prison that can be used as a drug), then a new appointment had to be requested so that the prison physician can prescribe it, and then to get it from the pharmacy outside. While there was no medicine, I used wartime methods: I wrapped my foot in a plastic bag to keep it sterile and pulled the sock on it.”*

Another individual, suffering from a serious COPD lung disease, reported having a lung capacity of 67% when entering prison and 27% at the time of the leaving the penitentiary institution. This person tried to obtain a disability certification from the penitentiary institution, but due to constant transports the proceedings were discontinued.

Such procedures took a long time even before the pandemic. The persons concerned and their defense counsels reported that any procedure involving some kind of administrative operations was prolonged by several additional weeks due to the pandemic.

A general problem related to the epidemiological situation, as pointed out by sentenced individuals, was that they were not informed by the penitentiary institution about changes concerning the different procedures, such as the use of telecommunication equipment or the different regulations of judicial decisions on ordering release on parole and reintegration custody. They could not follow quick-changing legislation, so they often did not know what their rights and obligations were.

It is important to note that in the view of certain defense counsels, changes due to the epidemiological situation also had beneficia effects on persons living with financial difficulties. As mentioned before, family members living in poverty usually do not have the chance to visit detained individuals at all because of travel costs and long distances and telephone tariffs are also high. Skype, which was equally available for all detainees under the relevant regulation (but in

different amounts of time for each prison regime), meant a more practical and widely accessible alternative means of communication for many to communicate with their relatives, compared to other means available before the pandemic. However, there was no such positive effect in families living in extreme poverty, where electronic equipment was not available. One of the experts working with detainees and participating in the research highlighted that the social background of relatives could contribute to significant inequalities concerning contacts during the pandemic, a relevant factor being access to Skype. If the relative has poor living conditions (such as no internet or device for installing Skype) or does not have the necessary digital knowledge for communication, he or she cannot benefit from the possibilities of free Skyping. This concern was confirmed by the ombudsperson in a report on a visit in one of the institutions.<sup>43</sup>

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<sup>43</sup> The report of the ombudsperson as National Preventive Mechanism in case No. AJB-2419/2020 related to the visit in Sátoraljaújhely High and Medium Security Prisons; p. 9: the management of the penitentiary institution reported to the ombudsperson that Skype contacts "in many cases depend on the relatives, who must possess at least one telephone device suitable for the conversation."



# Conclusions and recommendations

The Hungarian Government sought to respond to the urgent and continuously developing COVID-19 pandemic by announcing a state of danger and introducing legislative changes, such as the March 2020 Authorisation Act, several amendments to the CC and the CCP, and the consequent Transitional Act that remains in effect to date. In the opinion of the Hungarian Helsinki Committee, the Authorisation Act did not fulfill the democratic and constitutional requirements of declaring a special legal order and was contrary to international law and standards. The special legal order declared for an indefinite period raised serious concerns with respect to rule of law standards.<sup>44</sup>

The epidemiological situation that – in the absence of early release measures, new alternative sanctions or the wider application of existing sanctions and measures – placed a significant burden on law-enforcement, most probably intensified already existing, systemic problems, and put sentenced individuals who were already vulnerable and had less negotiating power to an even more difficult situation.

The following table sums up the recommendations of the research, its participants, the Hungarian Helsinki Committee and Penal Reform International. A part of the recommendations refers to how changes in the legal regulation and court practice, in case an epidemiological situation persists, could effectively ensure procedural safeguards, with special attention given to alternative penalties and measures as well as legal institutions used for mitigating the effects or adverse consequences of penalties involving the deprivation of liberty. In addition, if certain elements of the new regulations introduced due to the epidemiological situation will be integrated into the legal environment and court practices in the long run, the recommendations seek to address how the risks entailed by these new and widely applied legal institutions (such as hearing by means of telecommunication) can be minimised with respect to the right to a fair trial.

<b>RECOMMENDATIONS FOR THE MINISTRY OF JUSTICE, THE NATIONAL OFFICE FOR THE JUDICIARY AND THE NATIONAL PRISON SERVICE HEADQUARTERS:</b>
1. Suspend of the enforcement of petty offence and criminal detention, in particular for those who have not been able to pay the fine and would be imprisoned for that reason.
2. Defer admissions to prisons for those who have committed a non-violent offence and who have been sentenced to prison for less than three years.
3. Extend the application of reintegration custody, for example introduce a strictly supervised form of imprisonment at home.
4. Interrupt or convert to reintegration custody the prison sentences of non-violent offenders of good behaviour who are at the end of their sentence.
5. Increase the attention to elderly or chronically ill prisoners, consider the possibility of continue enforcing their sentences outside prison.

<sup>44</sup> The background note of the Hungarian Helsinki Committee on the issue is available at: [www.helsinki.hu/wp-content/uploads/MHB\\_hatteranyag\\_a\\_felhatalmazasi\\_torvenyhez\\_20200331.pdf](http://www.helsinki.hu/wp-content/uploads/MHB_hatteranyag_a_felhatalmazasi_torvenyhez_20200331.pdf) and in English at: [helsinki.hu/wp-content/uploads/HHC\\_background\\_note\\_Authorisation\\_Act\\_31032020.pdf](http://helsinki.hu/wp-content/uploads/HHC_background_note_Authorisation_Act_31032020.pdf)

<p>6. To keep track of the impacts of changes concerning legal regulations and practices of courts related to the epidemiological situation, we recommend that the Ministry of Justice and the National Office for the Judiciary systematically collect data on judicial decisions, case-law related to alternative penalties and measures, release on parole and integration custody; the developments in the execution of sentences; and the practices introduced during the pandemic related to these legal institutions (e.g. hearings by means of electronic devices, judicial decisions by penitentiary judges on the basis of documents).</p>
<p>7. After the pandemic, experiences gained in the usage of telecommunication devices should be examined in the light of the available statistics and the experiences of legal professionals, and the findings should be taken into account when deciding on which elements and in what form of the regulation should be upheld for the time after the pandemic.</p>
<p>8. A wider range of data should be made publicly available.</p>
<p>9. Defendants, especially those without defense counsels, and sentenced individuals should receive broad, timely and comprehensible information about legal provisions, regulations and practices modified due to the pandemic – or any future crises – as well as their related rights.</p>
<p>10. The number of probation officers and prison probation officers should be increased to ensure effective services and increased adaptability in times of crises.</p>
<p>11. Relationships between probation services and community service providers that have been established during the pandemic have to be maintained and extended, so that options for work placements remain broader and more flexible.</p>
<p>12. In case of hearings or judicial hearings by telecommunication devices, respect for procedural safeguards should be monitored/supervised and widely ensured, with special attention to vulnerable defendants. Defendants without access to mobile phones should be given the opportunity to contact their defense counsel by phone before and during each remote hearing for consultation.</p>
<p>13. Penitentiary judges should be encouraged to use release on parole and reintegration custody more widely to mitigate the burdens on prison services and to protect law-enforcement staff and detainees in relation to the state of danger and any future crises impacting prisons.</p>
<p>14. More telecommunication devices suitable for hearings by penitentiary judges and court hearings should be made available in penitentiary institutions in order to increase the number and efficiency of remote hearings for issues adjudicated by penitentiary judges. Separate telecommunication devices or time-slots should be allocated for the special purposes of procedures by penitentiary judges.</p>
<p>15. Socio-economically or otherwise more vulnerable sentenced individuals and their families should be supported in using and benefitting from remote communication, including facilitation of technical skills development and access to devices through trainings or publicly available devices at local municipalities or NGOs.</p>
<p>16. Health care related protocols and administrative processes have to be unified and simplified in penitentiary institutions to make specialists and medication more accessible with the aim of ensuring that medical help is available when needed, especially for individuals with special health care needs and pre-existing conditions.</p>