

[HUN-1993-3-015](#)¹

a) Hungary / b) [Constitutional Court](#) / c) / d) 13-10-1993 / e) 53/1993 / f) 1956 War Crimes Case / g) *Magyar Közlöny* (Official Gazette), 147/1993 / h) .

Keywords of the Systematic Thesaurus:

[1.3.2.1](#) Constitutional Justice - Jurisdiction - Type of review - **Preliminary / *ex post facto* review.**

[2.1.1.4](#) Sources - Categories - Written rules - **International instruments.**

[2.2.1.2](#) Sources - Hierarchy - Hierarchy as between national and non-national sources - **Treaties and legislative acts.**

[5.3.38.1](#) Fundamental Rights - Civil and political rights - Non-retrospective effect of law - **Criminal law.**

Keywords of the alphabetical index:

[Statute of limitation](#) / [War crime](#) / [International humanitarian law](#) / [Geneva Convention \(1949\)](#).

Summary:

The Hungarian Parliament in February 1993 passed a law on «Procedures Concerning Certain Crimes Committed During the 1956 Revolution». This law tried to make possible some form of «historical justice» in order to prosecute Communist offenders. Three previous attempts could not pass the scrutiny of judicial review. This time again the President of the Republic did not promulgate the act, but turned to the Constitutional Court for «preventive norm control».

The President asked the Court to review the law for its conformity with both the Constitution and two international agreements - [Article 7.1 ECHR](#) and [Article 15 of the International Covenant on Civil and Political Rights](#). As for the second claim, the Court had to interpret its jurisdiction to consider questions of international law when ruling on the constitutionality of a not yet promulgated law. The Court claimed the right to judge the law's conformity with international law, because the Court is required under Article 7.1 of the Constitution to ensure harmony between domestic law and obligations assumed under international law when evaluating a law's constitutionality.

As to the merits of the case, the Court restated its former stand-point that the retroactive amendment of the statute of limitations in criminal cases is unconstitutional. The Court has found two exceptions to this principle: a) if Hungarian law in force at the time when the crime was committed provided no statute of limitations, b) if the crime is a crime against humanity or a war crime, and the non-application of a statute of limitations is an obligation undertaken by Hungary in an international agreement.

¹ Source: [http://www.codices.coe.int/NXT/gateway.dll/CODICES/precis/eng/eur/hun/hun-1993-3-015?fn=document-frameset.htm\\$f=templates\\$3.0](http://www.codices.coe.int/NXT/gateway.dll/CODICES/precis/eng/eur/hun/hun-1993-3-015?fn=document-frameset.htm$f=templates$3.0)

The Court declared the first article of the law under review unconstitutional, because it referred exclusively to crimes defined by domestic law, and extended the statute of limitation retroactively for crimes committed during the revolution of 1956.

The constitutionality of the second article, referring to war crimes and crimes against humanity as defined by the Geneva Conventions of 1949 for the Protection of War Victims, was upheld. The Court referred also to the New York Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity of 1968, signed and ratified by Hungary. The New York Convention declares that «no statutory limitation shall apply to several categories of war crimes and crimes against humanity irrespective of the date of their commission». By signing this convention, Hungary undertook an obligation not to apply its own statute of limitations in cases involving war crimes and crimes against humanity.

Supplementary information:

This is the fourth decision of the Constitutional Court regarding the question of retroactive extension of statute of limitations in criminal cases related to crimes committed under the former Communist regime. It is the first time that the Court upheld the constitutionality of an act passed by the Parliament regarding this issue.

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