

WORLD FACTBOOK OF CRIMINAL JUSTICE SYSTEMS

Hungary

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This country report is one of many prepared for the World Factbook of Criminal Justice Systems under Bureau of Justice Statistics grant no. 90-BJ-CX-0002 to the State University of New York at Albany. The project director was Graeme R. Newman, but responsibility for the accuracy of the information contained in each report is that of the individual author. The contents of these reports do not necessarily reflect the views or policies of the Bureau of Justice Statistics or the U.S. Department of Justice.

GENERAL OVERVIEW

1. Political System.

The Hungarian Republic is administratively divided into 19 counties plus the capital, Budapest. The political administration is centralized and has jurisdiction over the local governments.

The Courts are an independent unit consistent with the theory of the separation of powers. The Parliament elects the President of the Supreme Court. The Head of the Justice Department appoints the Presidents of the individual courts on the basis of the recommendations of judges working in those courts.

The Prosecution is a self-contained agency, independent of the government. The Chief Public Prosecutor is the head of the centrally-organized prosecution unit. S/he is elected by Parliament for a 5-year term and is accountable solely to the Parliament.

The Police have general investigative powers.

The Prosecution, Customs Police, Border Guards, and the investigating agency of the army can carry out investigations in other legally specified areas. In theory, the head of police is the National Chief Commissioner of Police, although in practice it is the Chief's criminal deputy. The National Chief Commissioner of Police is subordinate to the Head of the Department of Internal Affairs. Local police branches operate independently of the local governments. The judicial system is organized according to the 19 administrative counties plus Budapest. Each

county
has its own court.

2. Legal System.

Hungarian law is derived from the Roman-Germanic family of law. This helps to explain the significant codification of the different branches of law (for instance, criminal law). Hungarian law bears some similarity to German-Austrian law, in terms of its criminal law and criminal proceedings. (*Les grands syst,mes de droit contemporais*, Paris, Dalloz, 1974.)

3. History of Criminal Justice System.

Hungary's geopolitical position--that is, the fact that Hungary occupies the Carpathian Basin and is situated in the middle of Europe--has determined both its history and the history of its criminal law. The development of the Hungarian legal system in the Middle Ages was not significantly different from the general evolution of European law. For example, the Hungarian Constitution issued in 1222, the Golden Bull, had the same function as the English Magna Carta of 1215. Both documents comprised the basic tenets of their country's Constitution, both sought to assure and consolidate the freedom of their nation, and both established the rights of the nobility against their King's power.

From the beginning of the 18th century, Hungary was a part of the Hapsburg Empire, although it abided by its own legal system. Before the revolution of 1848, Hungary's legal system was based on the three-volume book of common law, compiled and written by Lord Chief Justice Istv n Werb"czy in 1517. (The Hungarian translation for the three-volume book of common law: *Tripertitum opus juris consuetudinarii incytit regni Hungariae per Magistrum Stephanum de Werbocz.*)

The modern criminal law and justice system of the country was established in the second half of the 19th century. The unified state courts and the Royal Prosecution were started in 1872. The first criminal law code and the first criminal proceedings code was contained in the 1878 (Part V) and the 1896 (Part 33) statutes respectively. These statutes were in effect, with minor modifications, until the end of the Second World War. With the formation of the party-state in 1948, Socialist law ruled. During this period, Hungary abided by two criminal law codes (the 1961:V and the 1978:IV acts) and three criminal proceedings codes (1951:III, 1962:8, and 1973:I acts).

Hungary has not drafted a new criminal law code since 1990. Rather, the existing codes have

been significantly modified to meet the requirements of the European Human Rights Convention and the requirements of a constitutional state.

CRIME

1. Classification of Crimes.

*Legal classification. Hungarian law differentiates between felonies and misdemeanors, depending on the seriousness of the crime. Felonies are intentional crimes that can result in sentences of more than 2 years imprisonment. All other crimes are misdemeanors. All unintentional crimes (for example, nonintentional homicide) are misdemeanors. All intentional crimes that have a penalty of less than 2 years of imprisonment are misdemeanors.

Hungarian law also includes civil offenses, which comprise offenses mainly against public administration. However some criminal offenses, such as property crimes involving objects of small value (under 4000 HUF), are placed in this category as well. Civil offenses fall under the jurisdiction of various administrative agencies, local governments or traffic police, but not the courts.

*Age of criminal responsibility. Persons under 14 years old cannot be held criminally responsible.

*Drug offenses. Drug offenses are dealt with in the 4th Title of the 16th chapter of the penal code under section 282 and 282(A) (drug abuse) and 283 (causing pathological addiction). According to section 283 "...persons who by breaking official regulations produce, obtain, keep, offer, hand over, market, import or export drugs" and carry them through the territory of the country or sell them within the country are committing a crime and can be punished by imprisonment for up to 2 years. The imprisonment is from 2 to 8 years if the drug-related crime is obviously part of an ongoing trade in drugs as defined by official regulations or if the offender is armed or is charged with using a juvenile or if such a juvenile receives drugs. The punishment is 5-15 years imprisonment if a significant amount of drugs are involved or if the growing, production, obtaining, marketing and selling of drugs is undertaken within the framework of a criminal organization. Accordingly, persons who provide the finances or materials or aid in the preparation of drugs are also indictable. Two years' imprisonment or a fine can be imposed on persons who possess a small amount of drugs. It is

a misdemeanor to advocate drug use publicly and can be punished by 2 years imprisonment.

Section 282(A) states that growing, producing, obtaining and keeping drugs for one's own personal use or committing a non-serious drug-related crime are not indictable, providing that one can certify by the time the verdict is passed that one has received treatment for drug addiction for at least 6 months without interruption.

Under the first paragraph of section 282, it is a crime to sell or use drugs that are defined by the official regulations laid down in the text of the law. This official regulation is the 1/1968 (V.12) decree issued by the Department of Internal Affairs and the Department of Health, which lists the substances classified as drugs in Hungary. It was based on the Unified Drugs Treaty of 1961 and the 1971 treaty involving so-called psychotropic substances. In addition to more common drugs (opium, heroin, morphine, cocaine) this decree lists other basic ingredients of medicine and dangerous psychotropic materials.

The crime of causing pathological addiction (Sect. 283) occurs when a person over 18 years old assists a person under 18 years old in abusing drugs or tries to persuade him/her to use drugs. This crime is a felony, punishable by up to 3 years imprisonment.

2. Crime Statistics.

The following crime statistics are taken from the first and second volumes of the Unified Criminal Statistics of Police and Prosecution 1992, which are issued by the Data Processing Office of the Department of Internal Affairs and the Computer Centre of the Prosecution.

*Murder. In 1992, there were 435 recorded intentional homicides. Attempts are included.

*Rape. In 1992, there were 738 cases of rape recorded.

*Theft. In 1992, there were 91,957 cases of burglary recorded.

*Drug offenses. In 1992, there were 152 drug-related crimes recorded.

*Crime regions. In 1992, 29.7% of the crime reported by the public prosecution was committed in the capital of Budapest. Following Budapest, the county of Hajdu-Bihar had the highest rate of crime (546.4 crimes per 10,000 residents). In particular, Hajdu-Bihar county had the highest property crime rate among all counties (454.3 crimes per 10,000 residents), although it has significantly fewer property crimes than some districts in the capital (for example, there were 1,678.1 property crimes per 10,000 residents in the 5th district, 1,120.0 in the 8th district, and

876.8 in the 7th district).

VICTIMS

1. Groups Most Victimized by Crime.

The most vulnerable age group for homicide and other violent crimes is between 29 and 59. In addition, 62.5% of homicide victims are men and 34.6% are women. 69.5% of the victims of bodily harm are men and 39.5% are women. Infants and juveniles constitute 46.2% of the victims of forcible rape. 17.2% of robbery victims are women. (Gorgenyi, 1992).

Further research on the victimization of children in families revealed that 48.8% of all victims were boys and 51.2% girls. About 30% of all victims were Gypsies. No other information on the ethnic origin of the victims was available. (Kerezsi, 1991).

2. Victims' Assistance Agencies.

The international fund for victims' assistance, the "White Ring", has recently begun operations in Hungary. The Hungarian branch is ESZTER, and is aimed at assisting the female victims of forcible rape.

3. Role of Victim in Prosecution and Sentencing.

Essentially, the victim has a two-fold role in the prosecution and sentencing processes. First, the victim can initiate criminal proceedings by filing a report with the police. Second, the victim's testimony can be used as evidence for the court to consider when establishing a statement of facts.

The victim has the right to provide information against persons, to take part in the court procedures, and to initiate the asking of questions at the trial. In the case of certain crimes victims can act as private prosecutors. In addition, the victim is allowed the opportunity to make civil law claims during the criminal proceeding.

4. Victims' Rights Legislation.

Information not obtained.

POLICE

1. Administration and Organization.

The centralized state-police force of the Hungarian republic operates under a strictly hierarchical system that runs parallel to the military hierarchy. At the top of the hierarchy is the National Police Administration (NPA) whose head is the Chief Police Commissioner, with a rank of Police General. The NPA has two chief

administrative sections: criminal and public security. The directors of these sections are deputies of the Chief Police Commissioner. The following central executive agencies are directly subordinate to the NPA: Economic and Information Chief Administration, the Republic Guards, the Police Troop Force, the Special Police Service (anti-terrorist service), the Airport Security Service, the Special Service against Organized Crime and Drugs, and the Economic Crimes Police.

There are 19 county police organizations plus the Budapest police headquarters, each of which is directed by a police commissioner. There are 198 provincial police stations which function as subordinates to the territorial police headquarters. Each of these provincial stations is directed by a police superintendent.

2. Resources.

*Expenditures. The annual expenditure on policing was 36 billion forints for 1993. Approximately 75% of expenditures is allocated toward wages, material accounts for the other 25%.

*Number of Police. In 1990, 45,399 people were employed by police organizations, of which 29,727 were uniformed police officers and 25,672 worked in plain clothes. The number of men in the police force was 34,140; the number of women, 11,259.

As of 1993, there were 24,000 uniformed police working in traffic and public security forces. The criminal police forces employ about 8,000 persons (detectives, investigators, criminal technicians).

3. Technology.

*Availability of police automobiles. The ratio of police to automobiles is 9:1.

*Electronic equipment. The police have the use of a unified computer-aided dispatch system and a radio communications system.

*Weapons. On-duty police officers carry a baton, gun and radio as basic equipment. Officers on special deployment missions may also use bulletproof vests, combat helmets and machine guns.

4. Training and Qualifications.

There are three educational levels in Hungary: elementary school, secondary school, and university or college. Two years of secondary school training is needed to become a police officer. In addition to secondary school

training, 3 years (6 semesters) of college training is required to become a police officer of a higher rank.

5. Discretion.

*Use of force. Police may use force with advanced warning. Force can be used against people who resist the police. Police may use their weapons in order to prevent a serious crime from occurring, to catch a person who is suspected of having committed a serious crime, or to protect their lives, corporal integrity, or personal freedom from an attack or from threatening behavior.

*Stop/apprehend a suspect. The police can initiate criminal proceedings if they have a well-founded suspicion that a crime has been committed.

*Decision to arrest. The Police can hold persons in custody if the criminal act is witnessed, if their identity cannot be established, if there are conditions requiring pretrial incarceration, or if the court has ordered them to be arrested and put into custody. There are no legal alternatives to arrest.

*Search and seizure. The Police can search persons or property when there are grounds to believe that the search can lead to the capturing of a criminal or the procuring of important information, such as material evidence, about a crime.

*Confessions. Persons cannot be forced to testify, although suspects are given a chance to give their testimony. However, persons can be questioned as witnesses if they have information necessary to understand the facts of a case.

6. Accountability.

The Police handle citizen or departmental complaints against officers when the complaints are likely to result in disciplinary action. The Prosecution handles the complaint if it is likely to have criminal repercussions.

PROSECUTORIAL AND JUDICIAL PROCESS

1. Rights of the Accused.

*Rights of the accused. The accused has the right to be questioned and heard by the court. The court may pass a verdict only after hearing the plea of the accused. The Hungarian legal system does not give special treatment to suspects who

plead guilty. Guilty pleas are considered to be evidence which can be used in decisionmaking about the case. The accused has the right to remain silent or to speak in his/her own defense; the right to learn about the case (for instance, to examine case documents and to be present at the trial); the right to make suggestions or comments in regard to case proceedings; and the right to have defense counsel present at the criminal proceedings.

The law determines whether the case will be heard by a judge or judicial panel, depending on the seriousness of the crime. The accused has no influence in this decision. There is no jury system in Hungary.

*Assistance to the accused. Certain cases require the accused to have the services of defense counsel (for example, if the crime is punishable by more than 5 years imprisonment; the accused has already been incarcerated; the accused is deaf, dumb or blind; or if the accused does not speak Hungarian). The court will appoint a public defender if the accused cannot afford to hire a defense attorney or when the court deems it necessary. The court must inform the accused of the right to counsel.

2. Procedures.

*Preparatory procedures for bringing a suspect to trial. Before any public trial, an investigation is carried out by the Police or an investigating agency. The private prosecution of a case, however, usually begins with a formal accusation in court. An investigation is carried out only if the court orders it.

An investigating agency can hold the suspect in custody for 72 hours while the investigation is being conducted. The suspect can be held for pretrial incarceration indefinitely but only when ordered by the court.

The 17th chapter of the Criminal Trial Procedure regulates summary proceedings. In all private prosecution cases or, at the suggestion of the public Prosecutor, the court may reach a case decision without a proper trial and order the accused to pay a fine, be suspended from employment, be deprived of a driving license, or be expelled from their home. For nonserious crimes in which the facts of the case are clear, or the accused pleads guilty, or the aim of punishment can be reached without having a trial, the law states that fines or other types of supplementary punishment can be used. The presiding court must pass judgement in every case involving an accusation.

*Official who conducts prosecution. Most cases are prosecuted by the official Prosecutor. In cases of non-serious crimes, as enumerated in the law, the injured party can act as a private prosecutor.

*Alternatives to trial.
Information not obtained.

*Proportion of cases going to trial. The majority of criminal cases go to trial. There are no statistics which show the percentage of cases which involve guilty pleas.

*Pretrial incarceration conditions. The accused may be kept under pretrial incarceration if he has committed a crime that is punishable by imprisonment and: a) has previously escaped or is likely to escape; b) might upset/prevent further court proceedings if left at liberty; c) has committed another crime punishable by imprisonment while free during the proceedings; or d) is likely to commit another crime.

*Bail procedure. Bail does not exist in Hungary.

*Proportion of pre-trial offenders incarcerated. As of December 31, 1992, 4,272 prisoners were awaiting trial.

JUDICIAL SYSTEM

1. Administration.

There are three levels of criminal courts (from lowest to highest): local courts, county courts, and the Supreme Court.

2. Special Courts.

The Hungarian court system is unified. There are no special juvenile or military courts. However, there are councils for juveniles and military personnel that have jurisdiction in certain relevant situations.

3. Judges.

*Number of judges. As of October 1993, there were 2,028 official judges in Hungary, of which 96 worked in the Supreme Court, 749 worked in the county courts, and 1,183 worked in the town (local) courts.

In 1990, there were 2,233 judges (including junior judges) of whom 1,425 were women and 808 were men. This ratio has not changed significantly since that time. No data exists

regarding the ethnic origins of judges.

*Appointments and qualifications. Official judges are appointed by the President of the Hungarian Republic and are required to have a university law degree, have two years of post-graduate studies, and pass a special judge-prosecutor examination. The Head of the Justice Department initially proposes an appointment. Lay assessors (people's judges and members of courts of first instance), are elected.

PENALTIES AND SENTENCING

1. Sentencing Process.

*Who determines a sentence. Either a judge or judicial panel determines the sentence. Sentences are determined in session chambers where only judges may be present.

*Is there a special sentencing hearing.
Information not obtained.

*Which persons have input into the sentencing process?
Information not obtained.

2. Types of Penalties.

*Range of penalties. The principal punishments used include deprivation of liberty (imprisonment), public labor, and fines. Supplementary punishments include prohibition from participating in public affairs, prohibition from driving a motor vehicle, local banishment (a Hungarian citizen may be banished from a city or village), expulsion (a foreign citizen may be expelled from Hungary), confiscation of property, and fines.

In 1992, 32.2% of criminal convictions resulted in prison sentences, 0.1% resulted in public labor, 43.9% resulted in fines (as the sole principal punishment) and 22.8% resulted in supplementary punishments being used as the sole principal punishment.

*Death penalty. In 1990, the Constitution Court found the death penalty to be unconstitutional (23/1990 Act X.31). The last execution in Hungary took place on July 14, 1988.

PRISON

1. Description.

*Number and type of prisons. There are a total of

33 correctional institutions. There are 14 national prisons, 8 are maximum/medium level correctional institutions, 5 medium/minimum level institutions, and 1 juvenile correctional institution. There are also 2 health institutions and 17 county institutions. Twelve correctional institutions run factories.

*Number of prison beds. There are 16,223 prison beds and 608 beds in health institutions for a total of 16,831 prison beds.

*Average daily population/number of prisoners. As of December 31, 1992, the total number of prisoners was 15,913, of which 15,117 were male and 796 were female. The daily average number of prisoners in 1992 was 15,699. Prisoners are not registered by ethnic origin.

*Number of annual admissions. The number of annual admissions in 1992 was 18,424.

*Actual or estimated proportions of inmates incarcerated.

Information not obtained.

2. Administration.

*Administration. The National Prison Administration is the central directing organization of the Hungarian correctional institutions. There are two kinds of correctional institutions: national and county.

*Prison guards. As of October 31, 1993, there were 6,634 prison staff members, of which 5,314 were guards and 1,320 were civil employees. There is no information on the gender and ethnicity of prison guards.

*Training and qualifications. A nonuniformed employee is required to have an elementary or secondary education, a noncommanding officer must have at least a secondary or university education, and a commanding officer must have a university education.

*Expenditure on the prison system. The total expenditure on the prison system per year is 6.7 billion HUF.

3. Prison Conditions.

*Remissions. Remissions are not possible, but inmates may get time off for good behavior after serving a certain part of their prison sentence.

*Work/Education. Prisoners are required to work. While educational and vocational programs are important parts of daily prison life, prisoners are not required to attend classes.

*Amenities/Privileges. Prisoners may receive visitors once a month. As a reward, they may be allowed to leave the prison for a certain period of time (for instance, a weekend). Prisoners are provided individual and group therapy and medical care.

EXTRADITION AND TREATIES

*Extradition. Criminals and suspects can be extradited to or from other countries, which include Bulgaria, the Czech and the Slovak Republics, Poland, Rumania, the countries of the Commonwealth of Independent States, United Kingdom, Ireland, Spain, Cyprus, Greece, Mongolia, Syria, Algeria, Austria, Egypt, the former Yugoslavia, Vietnam, Italy, Turkey, Sweden, North Korea, Cuba, Albania, Belgium, France, and Tunisia.

*Exchange of prisoners. Information not obtained.

*Specified conditions. There are no general conditions that govern the extradition agreements; they are all specifically bilateral.

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