The ECHR and Hungary

facts & figures

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

The ECHR and Hungary

facts & figures

Council of Europe

Accession: 6 November 1990

European Convention on Human Rights

Signed: 6 November 1990
Ratified: 5 November 1992

ECHR judges

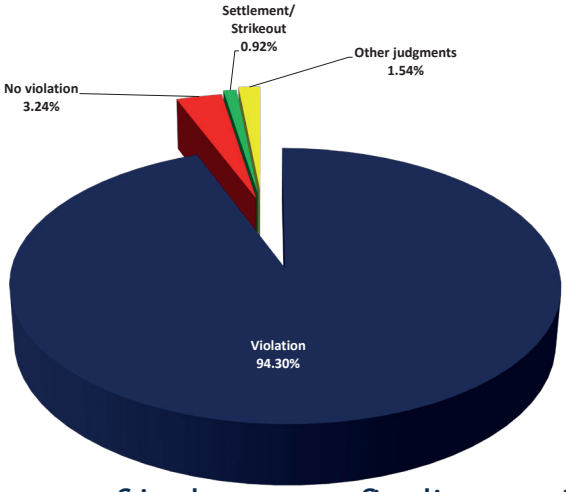
Péter Paczolay (since 2017)
András Sajó (2008-2017)
András Baka (1991-2008)

ECHR and Hungary at 1 January 2023

1st judgment: Rekvényi v. Hungary (20 May 1999)
Total number of judgments: 649
Judgments finding a violation: 612
Judgments finding no violation: 21
Friendly settlements/strikeout: 6
Other judgments: 10
Applications pending: 622
Applications finished: 25,978

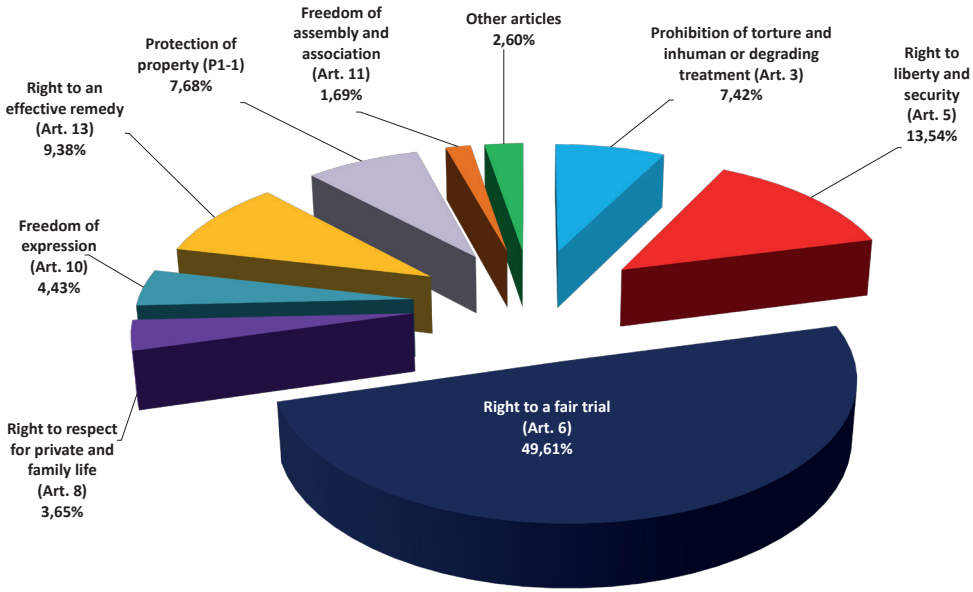
Types of judgments

In almost 94% of the judgments delivered concerning Hungary, the Court has given judgment against the State, finding at least one violation of the Convention.



Subject-matter of judgments finding a violation

Over half of the findings of a violation concerned Article 6 (right to a fair hearing), relating mainly to the length of the proceedings.



Impact of the Court's judgments

The Committee of Ministers, the Council of Europe's executive organ, supervises compliance with the Court's judgments and adoption of the remedial measures required in order to prevent similar violations of the Convention in the future.

The Court's judgments have led to various reforms and improvements in Hungary, relating in particular to:

Strengthening of the lawfulness of detention

Decisions to place defendants in pre-trial detention must be taken in the presence of the parties, and this measure may only be ordered by the courts as a last resort.

In addition, the Code of Criminal Procedure has been amended, particularly to emphasise the obligation to provide reasons for initial pre-trial detention orders.

Improving the fairness of proceedings

The Code of Criminal Procedure, which authorised courts to hear cases in camera, was amended in 2006. There is now an obligation to hold a public hearing, in the presence of the defendant and his or her lawyer, in cases where an appeal has been lodged to increase the sentence.

Simplified freedom of assembly

Repeal of the provision in the Freedom of Assembly Act which prohibited demonstrations organised without prior notification.

Selected cases

Case of Földes and Földesné Hajlik
(31 October 2006)

Károly András Földes and Anna Földesné Hajlik had been the subject of criminal proceedings on charges of fraudulent bankruptcy, and the Hungarian authorities had withdrawn the first applicant's passport. The latter complained that he had been deprived of his passport for over ten years. The Court ruled that the travel ban imposed on the applicant had in fact amounted to an automatic blanket measure of indefinite duration, and that as such it had run counter to the authorities' duty to take appropriate care that any interference with the right to leave one's country was justified and proportionate.

Violation of Article 2 of Protocol No. 4 (freedom of movement)

Case of Bukta and Others (17 July 2007)

The three applicants complained that the peaceful demonstration which they had attended in 2002 on the occasion of a visit by the Romanian Prime Minister had been broken up solely because the police had not been given advance warning of it. The Court held that in the absence of evidence that the demonstration had presented a danger to public order, the dispersal of the demonstration had amounted to a disproportionate restriction of the applicants' right to freedom of peaceful assembly.

Violation of Article 11 (freedom of assembly and association)

Case of Vajnai
(8 July 2008)

The case concerned the conviction of Attila Vajnai, the then Vice-Chairman of a left-wing political party, for sporting the five-pointed red star, the symbol of the international workers' movement, during a demonstration in Budapest. The Court concluded that the applicant's conviction for the mere fact that he had worn a red star cannot be considered to have responded to a "pressing social need".

Violation of Article 10 (freedom of expression)

Case of Korbely
(19 September 2008)

In 1994 János Korbely had been charged with involvement in quelling a riot in Tata during the 1956 Revolution. He had been found guilty of a crime against humanity and sentenced to five years' imprisonment. The applicant submitted that he had been convicted for an act which had not constituted a criminal offence at the time when it had been committed. The Court had to consider whether the applicant's act, at the time when it had been committed, had constituted an offence defined with sufficient accessibility and foreseeability by domestic or international law.

Violation of Article 7 (no punishment without law)

Case of Kenedi
(26 May 2009)

János Kenedi is an historian specialising, inter alia, in dictatorships and their secret services. He complained about the Hungarian Interior Ministry's refusal to enforce a judicial decision authorising his access to documents concerning the communist period in Hungary. The Court considered that the authorities had misused their power by delaying the applicant's enjoyment of his right of access to documents concerning the Hungarian secret services.

Violation of Article 10 (freedom of expression)

Case of Ternovszky
(14 December 2010)

Anna Ternovszky complained that she had been unable to give birth at home rather than in a hospital or a birth centre, since health professionals prepared to help women to give birth at home had been liable to prosecution under the relevant Hungarian legislation. The Court found that the matter of health professionals assisting home births was surrounded by legal uncertainty prone to arbitrariness.

Violation of Article 8 (right to respect for private and family life)

Case of Vojnity
(12 February 2013)

Péro Vojnity belonged to the religious denomination *Hit Gyülekezete* (Congregation of the Faith). He submitted to the Court that the deprivation of his right of access to his son had been based on his religious convictions and that he had been treated differently from other individuals applying for right of access following divorce or separation. The Court held that the Hungarian courts had not demonstrated that it was in the best interests of the child to lose all his links to his father, which meant that the latter had suffered discrimination in the exercise of his right to respect for his family life. The Court could discern no exceptional circumstances justifying such a radical measure.

Violation of Article 14 (prohibition of discrimination) read in conjunction with Article 8 (right to respect for private and family life)

Case of Horváth and Kiss
(29 January 2013)

István Horváth and András Kiss, two young Roma men, complained that they had been discriminatorily and unjustifiably placed in schools for children with mental disabilities.

The Court emphasised that Hungary had seen many previous cases of Roma children being assigned to special schools without valid reason. It concluded that the history of the applicants' schooling showed that the authorities had

not taken appropriate account of the special needs as members of a disadvantaged group. They had consequently been isolated and the school curriculum which they had followed had hampered their integration into majority society.

Violation of Article 2 of Protocol No. 1 (right to education) read in conjunction with Article 14 (prohibition of discrimination)

Case of Vona
(9 July 2013)

Gábor Vona was the President of the "Hungarian Guard Association" which had been founded by members of the political party Movement for a Better Hungary, whose declared aim was to preserve Hungarian traditions and culture. Shortly after its inauguration the Association in turn set up the "Hungarian Guard Movement", with the statutory aim of "defending a physically, spiritually and intellectually defenceless Hungary". The case concerned the dissolution of the Association on account of the anti-Roma rallies and demonstrations organised by the Movement which it had set up.

The Court considered that, as in the case of political parties, the State was authorised to take preventive action against associations to protect democracy in the event of sufficiently imminent threats to the rights of others liable to undermine the fundamental values on the basis of which a democratic society exists and functions.

No violation of Article 11 (freedom of assembly and association)

Case of Magyar Keresztény Mennonita Egyház and Others
(8 April 2014)

The case concerned the new 2011 Hungarian Law on the Church. After the entry into force of that law in 2012, the applicant religious communities lost their status as registered churches which had previously entitled them to a number of financial and tax benefits for the pursuit of their religious activities.

The Court considered incompatible with the State's duty of neutrality in religious matters the fact that religious groups had to apply to Parliament to secure their re-registration as churches, and that if they were "legally established", they were treated differently vis-à-vis entitlement to material benefits.

Violation of Article 11 (freedom of assembly and association) read in the light of Article 9 (freedom of thought, conscience and religion)

László Magyar
(20 May 2014)

Having been found guilty of murder, armed robbery and several other offences, Lázló Magyar complained to the ECHR about the irreducibility of his life sentence without parole. The Court accepted that persons found guilty of a serious crime could be sentenced to imprisonment for an indefinite period where necessary for the protection of the population. However, Article 3 should be interpreted as requiring the reducibility of life sentences. The Court considered that this case pointed to a structural problem liable to give rise to similar applications, and that Hungary should reform its life sentence review system.

Violation of Article 3 (prohibition of inhuman or degrading treatment)

Violation of Article 6 § 1 (right to a fair trial within a reasonable time)

Case of Varga and Others
(11 March 2015)

This case concerned a situation of widespread prison overcrowding in Hungary. The applicants alleged that their respective conditions of detention were or had been inhuman and degrading and that Hungarian law had provided no effective remedy to enable them to complain of the breach of their rights in this respect.

The Court found that the applicants' conditions of detention had amounted to degrading treatment, and that they had had no effective remedy to complain of that treatment. It considered that the violations found in this prison overcrowding case had originated in a general dysfunction in the Hungarian prison system justifying the application of pilot judgment procedure. The Court requested the Hungarian authorities to take action to resolve that issue.

Violation of Article 3 (prohibition of inhuman or degrading treatment)

Violation of Article 13 (right to an effective remedy) of the Convention read in conjunction with Article 3

Case of Gazsó
(16 July 2015)

György Gazsó complained of the excessive length, namely more than six years, of proceedings concerning a labour dispute with his former employer.

Given the number of persons affected by this matter and the need to provide them with speedy and appropriate redress, the Court decided to implement pilot judgment procedure. It held that Hungary should establish an effective domestic remedy concerning excessively long civil-law proceedings.

Violation of Article 6 § 1 (right to a fair trial within a reasonable time)

Violation of Article 13 (right to an effective remedy) read in conjunction with Article 6 § 1

Case of Magyar Tartalomszolgáltatók Egyesülete and Index.hu Zrt
(2 February 2016)

The case concerned the liability of "MTE", the self-regulatory body of Hungarian Internet content providers, and the Internet news portal "Index", for vulgar and insulting comments left by Internet users on their websites. The applicants had been declared liable for the comments uploaded by visitors to their sites following the publication in 2010 of an opinion criticising the misleading commercial practices of two real estate websites.

The Court reiterated that, although not publishers of comments in the traditional sense, internet news portals had, in principle, to assume duties and responsibilities. However, it noted that in this case the Hungarian courts had failed to balance the competing interests and had accepted from the outset that the comment shad been unlawful because they had damaged the reputation of the real estate websites in question.

Violation of Article 10 (freedom of expression)

Case of Karácsony and Others
(17 May 2016)

The case concerned fines imposed on Hungarian parliamentarians belonging to two opposition parties which had disrupted the work of Parliament by protesting against two legislative bills. The Court ruled, in particulier, that at the material time domestic legislation had not provided for any possibility for the MPs concerned to be involved in the relevant procedure, notably by being heard.

Violation of Article 10 (freedom of expression)

Case of Baka
(23 June 2016)

András Baka, a former ECHR judge and the President of the Hungarian Supreme Court at the material time, complained about the premature termination of his term of office in the wake of his criticism of a series of legislative reforms, and his inability to apply to a court to oppose that termination. His six-year term had ended three-and-a-half years early with the entry into force of the Fundamental Law setting up the Kúria, the highest court in Hungary, replacing the Supreme Court.

The Court highlighted the importance of involving an authority independent of the executive and the legislature in any decision concerning the termination of a judge's term. It considered that the applicant had not been granted the right of access to a tribunal, also concluding that the early termination of his term of office had amounted to an interference with his right to freedom of expression.

Violation of Article 6 § 1 (right of access to a tribunal)
Violation of Article 10 (freedom of expression)

Case of T.P. and A.T.
(4 October 2016)

The applicants were two prisoners who had been sentenced to life imprisonment without parole. The case concerned new legislative provisions introduced in Hungary in 2015 for the purposes of reviewing life sentences. The Court deemed overly long a waiting period of 40 years before a prisoner could begin to hope for a pardon.

Violation of Article 3 (prohibition of inhuman or degrading treatment)

Case of Magyar Helsinki Bizottság
(8 November 2016)

The applicant, Magyar Helsinki Bizottság (the Hungarian Helsinki Committee), is an NGO which monitors the implementation of international human rights instruments in Hungary and conducts activities to protect such rights. The case concerned the authorities' refusal to transmit information concerning officially appointed lawyers, on the grounds that such information constituted personal data which could not be disclosed under Hungarian law.

The Court held that by denying access to the requested information the domestic authorities had impeded the NGO's exercise of its freedom to receive and impart information.

Violation of Article 10 (freedom of expression)

Case of Béláné Nagy
(13 December 2016)

Béláné Nagy had been in receipt of an invalidity pension for almost ten years when her pension had been withdrawn following the introduction in 2012 of new conditions for eligibility under new legislation.

The Court ruled that the applicant could have legitimately hoped to receive her pension if she met the conditions set out in the previous legislation. The refusal to pay her pension had completely deprived a vulnerable person of her sole source of income pursuant to legislation having retroactive effect, in the absence of transitional measures suited to Ms Nagy's personal situation.

Violation of Article 1 of Protocol No. 1 (protection of property)

Case of Király and Dömötör
(17 January 2017)

Alfréd Király and Norbert Dömötör, both ethnic Roma, alleged that the police had failed to protect them against the racist ill-treatment which they had sustained during an anti-Roma demonstration in Devecser in 2012, and that they had not conducted a proper investigation into the events.

The Court noted that the openly racist demonstration, which had seen various acts of violence, had had virtually no legal consequences. It considered that such an alarming situation was likely to have been regarded by the public as legitimation and/or tolerance by the State of that type of behaviour.

Violation of Article 8 (right to respect for private and family life)

Case of Károly Nagy
(14 September 2017)

The case concerned an action for damages lodged by a pastor, Károly Nagy, against the Hungarian Reformed Church following his dismissal for disciplinary offences. He alleged that the fact that the Hungarian courts had declined

jurisdiction for ecclesiastical cases had deprived him of the right of access to a tribunal.

The Court held that the applicant had not held any arguable right under domestic law, as his occupation came under ecclesiastical law rather than civil law.

Inadmissible

Case of Könyv-Tár Kft and Others
(16 October 2018)

The applicants were companies established under Hungarian law for the purposes of selling and distributing textbooks to schools. They had complained about the loss of their business as distributors of school textbook by new legislation which had introduced a single State purchasing and distribution body.

The Court ruled that the measures adopted by the State had imposed an unfair burden on the companies in question, which had been deprived of their customer base – schools – under the new rules. The changes had led effectively to a monopolised market in school textbook distribution.

Violation of Article 1 of Protocol No. 1 (protection of property)

Case of Magyar Jeti Zrt
(4 December 2018)

The applicant company in this case, which ran a popular news website, had been found liable for posting a hyperlink to an interview on YouTube which had later been deemed defamatory.

The Court found that the Hungarian domestic law on objective (strict) liability for disseminating defamatory material had excluded the possibility of any meaningful assessment of the applicant company's right to freedom of expression, in a situation where the courts should have scrutinised the issue carefully. Such objective liability for using a hyperlink could undermine the flow of information on the Internet, dissuading article authors and publishers from using such links if they could not control the information they led to. That could have a chilling effect on freedom of expression on the Internet. Overall, the applicant company had suffered an undue restriction of its rights.

Violation of Article 10 (freedom of expression)

Case of Szalontay
(4 April 2019)

Győző Szalontay, who had been convicted of negligence resulting in death in a case widely covered by the media. In 2011 his company had sub-let premises to another company for a musical event at which a number of persons had been crushed to death in a stampede. The applicant claimed that his trial had been unfair and that he had not been required to lodge a constitutional appeal before applying to the ECHR.

The Court declared the application inadmissible for failure to exhaust domestic remedies. It ruled that the applicant should have appealed to the Constitutional Court. That decision represented a development in its case-law on the effectiveness of constitutional appeals in Hungary after the enactment of the Fundamental Law and the Law on the Constitutional Court in 2012.

Inadmissible

Case of R.S.
(2 July 2019)

In 2010 the applicant had been stopped in his car and had refused to take a breath test. He had been forced to give a urine sample by catheter because he had been suspected of driving under the influence of alcohol or drugs.

The Court held that the authorities had subjected the applicant to a grave interference with his physical and mental integrity against his will, even though the measure in question had not been necessary since a blood sample had also been taken to establish whether he had been inebriated.

Violation of Article 3 (prohibition of inhuman or degrading treatment)

Case of Szurovecz
(8 October 2019)

The case concerned media access to reception facilities for asylum-seekers. Illés Szurovecz, a journalist working for an online news portal, complained about the authorities' refusal to allow him to interview and photograph people in the Debrecen Reception Centre, thus preventing him from reporting on living conditions there.

The Court emphasised that research work was an essential part of press freedom and had to be protected. It noted that the authorities had only given cursory reasons for the refusal, such as possible security issues and the asylum-seekers' privacy, without properly weighing up the competing interests.

Violation of Article 10 (freedom of expression)

Case of Ilias and Ahmed
(21 November 2019)

The applicants, two asylum-seekers from Bangladesh, had spent 23 days in a border transit zone in Hungary before being expelled to Serbia, after the rejection of their asylum applications.

The Court ruled that the Hungarian authorities had failed in their obligation to assess the risks that the applicants might have been barred from the asylum procedure in Serbia or been expelled from country to country and sent back to Greece, where living conditions in the refugee camps had already been found incompatible with the Convention.

Violation of Article 3 (prohibition of torture and inhuman or degrading treatment) concerning the applicants expulsion to Serbia

No violation of Article 3 concerning living conditions in the transit zone

Case of Magyar Kétfarkú Kutya Párt
(20 January 2020)

The political party *Magyar Kétfarkú Kutya Párt* (Hungarian Party of the Dog with Two Tails) complained that it had been found liable for having provided voters with a mobile phone application enabling them to upload and share photographs of invalid ballot papers during the 2016 referendum on the European Union's plans for the resettlement of migrants. The Court found a violation of freedom of expression on account of the vagueness of the law relied upon to fine the applicant party.

Violation of Article 10 (freedom of expression)

Case of Albert and Others
(7 July 2020)

The case concerned a 2013 Hungarian law introducing the mandatory integration of two banks, Kinizsi Bank Zrt. and Mohácsi Takarék Bank Zrt., placing them under central supervising authorities. The 237 applicants, shareholders in the two savings banks, alleged, as their main submission, that the law in question had restricted their right to influence the activities of the banks in which they were shareholders.

The Court found that the measures complained of by the applicants primarily concerned savings banks, and that those measures had not directly affected their shareholding rights as such. The complaints should have been put forward by the two savings banks and not by the applicants, who, as shareholders, could not claim to be victims of a violation of their rights as guaranteed by the Convention.

Struck out of the list of cases

Case of R.R. and Others
(2 March 2021)

The case concerned the confinement of the applicants, a family of asylum-seekers, in the Röszke transit zone near the Serbian border in April-August 2017.

Violation of Article 3 (prohibition of inhuman or degrading treatment)

Violation of Article 5 § 1 (right to liberty and security), and Article 5 § 4 (right to have lawfulness of detention decided speedily by a court)

Case of Shahzad
(8 July 2021)

The applicant, a Pakistani national, had entered from Serbia to Hungary in 2016 with a group, and had been subject to subsequent summary expulsion by the police. The Court found in particular that the applicant had been subject to a "collective" expulsion as his individual situation had not been ascertained by the authorities, and they had not provided genuine and effective ways to enter Hungary, and removal had not been a result of his conduct.

Violation of Article 4 of Protocol No. 4 (prohibition of collective expulsion of aliens), and Article 13 (right to an effective remedy) taken in conjunction with Article 4 of Protocol No. 4

Selected measures to execute judgments

General measures

Case of Osváth
(5 July 2005)

Extension of the applicant's pre-trial detention in the absence of adversarial proceedings.

Introduction of the principle that both parties must be heard when examining extensions of pre-trial detention.

Case of Kmetty and Case of Barta
(16 December 2003 and 10 April 2007)

In the Kmetty case: lack of an effective investigation with regard to the applicant's allegations that he had been ill-treated by the police in 1998, the Court having found a series of shortcomings in the conduct of the investigation.

In the Barta case: lack of an effective investigation with regard to the applicant's allegations that she had been ill-treated by the police in 2002, the Court having noted a reluctance to conduct an effective and through investigation.

The new Code of Criminal Procedure requires the courts to provide factual reasons when they validate the prosecution service's decisions to discontinue an investigation or to dismiss private complaints. Victims can apply to a court directly if the prosecutor does not agree to investigate.

Case of Csikós
(5 December 2006)

The applicant's criminal-law conviction was upheld and his sentence increased on appeal, at the close of proceedings that were found by the Court to have been unfair, since they were held in camera and in the absence of the applicant and his lawyer.

Introduction of an obligation to hold a public hearing in the presence of the defendant and of his or her lawyer.

Case of Bessenyei
(21 October 2008)

Confiscation of the applicant's passport and a ban on leaving the country for two years on account of criminal proceedings against him for forging documents.

Repeal of the provision in the Code of Criminal Procedure which imposed a ban on leaving the country for defendants liable to a prison term of up to 5 years.

Individual measures

Case of Földes and Földesné Hajlik
(31 October 2006)

The ban on leaving the country, imposed on the applicant for more than ten years following fraudulent bankruptcy, has been repealed.

Case of Daróczy
(1 July 2008)

On account of an administrative omission, the applicant could no longer use her marital name after her husband's death, although she had been using it for more than 50 years.

The relevant legislation was amended and the applicant received official documents confirming that she was authorised to use her previous surname.

Case of Korbely
(19 September 2008)

The applicant, who had been convicted of "crimes against humanity" for having killed two persons during a military operation, was able to have the criminal proceedings against him reopened.

Case of Kenedi
(26 May 2009)

Refusal to execute a judicial decision authorising the applicant to access documents concerning the secret services.

The applicant was granted access to the documents that he wished to consult for his research.

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