



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

FOURTH SECTION

**CASE OF UNITED CIVIL AVIATION TRADE UNION AND
CSORBA v. HUNGARY**

(Application no. 27585/13)

JUDGMENT

STRASBOURG

22 May 2018

FINAL

22/08/2018

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of United Civil Aviation Trade Union and Csorba v. Hungary,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Ganna Yudkivska, *President*,

Vincent A. De Gaetano,

Faris Vehabović,

Egidijus Kūris,

Carlo Ranzoni,

Georges Ravarani,

Péter Paczolay, *judges*,

and Marialena Tsirli, *Section Registrar*,

Having deliberated in private on 27 March 2018,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 27585/13) against Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by the United Civil Aviation Trade Union (*Légiközlekedési Egyesült Szakszervezet*), and its president, Mr Attila Csorba (“the applicants”), on 16 April 2013.

2. The applicants were represented by Mr D. Karsai, a lawyer practising in Budapest. The Hungarian Government (“the Government”) were represented by Mr Z. Tallódi, Agent, Ministry of Justice.

3. The applicants alleged that the ban imposed on a demonstration planned by them had infringed their rights under Article 11 of the Convention.

4. On 9 February 2017 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The United Civil Aviation Trade Union (“the first applicant”) is a trade union registered in Budapest. Mr A. Csorba (“the second applicant”) is a Hungarian national who was born in 1970 and lives in Vecsés. He is the President of the United Civil Aviation Trade Union.

6. On 12 October 2012 the second applicant applied to the Budapest police department for authorisation to hold a demonstration on the road leading to Budapest Ferenc Liszt International Airport. He stated that the demonstration would be held on the hard shoulder of the road, which was not ordinarily used for traffic. The declared objectives of the demonstration were, *inter alia*, to draw the public's attention to the precarious financial situation in which the employees of the airport would find themselves if salary cuts envisaged by the company managing the airport were carried out. The event was scheduled to be held between 3 p.m. and 5 p.m. on 17 October 2012. The second applicant also specified that it was expected that about fifty to 100 persons would participate in the event and that it was intended that speeches would be given and that an open letter would be read out.

7. On 14 October 2012 the Budapest police department registered the application and informed the second applicant that, in order to clarify details regarding the programme of the demonstration and the number of police officers that would be required to secure the event, it was necessary to schedule a meeting with the organisers.

8. The second applicant and the Vice-President of the United Civil Aviation Trade Union met with the representatives of the Monor police department on the same day. The representative of the police department suggested that the demonstration be held at another location, since the planned venue would endanger traffic. The second applicant assured the police that the demonstrators would respect traffic rules, would only occupy the part of the road not used for traffic and would distribute flyers to car passengers, and that the organisers would call off or halt the demonstration if it was not in compliance with the relevant legal provisions.

9. On 14 October 2012 the Monor police department forbade the demonstration. It was of the view that the planned demonstration would endanger traffic and would render the airport inaccessible, infringing passengers' right to leave the country. In any event, the demonstration would breach the traffic code, since those parts of the road not used for traffic were not supposed to be accessed by pedestrians or be used for parking.

10. On 17 October 2012 the applicants requested judicial review of the decision, relying on their right to freedom of expression and to freedom of assembly. They argued that a demonstration could only be forbidden on the grounds of a need to ensure traffic safety if there were no alternative means of access to the airport. In their view the demonstration would not constitute any greater hindrance to traffic than would roadworks.

11. By a decision of 19 October 2012 the Budapest Surroundings High Court (*Budapest Környéki Törvényszék*) dismissed their complaint, endorsing in essence the police department's reasoning (see paragraph 9 above).

II. RELEVANT DOMESTIC LAW

12. The relevant provisions of Act no. III of 1989 on the Right to Assembly (“the Assembly Act”) read as follows:

Section 8

“(1) If the holding of an event subject to prior notification seriously endangers the proper functioning of the representative bodies or courts, or results in a disproportionate hindrance of the circulation of traffic, the police may ban the holding of the event at the place or time indicated in the notification, within 48 hours from the receipt of the notification by the authority.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

13. The applicants complained that the ban on organising a demonstration on the road leading to the airport had resulted in a disproportionate interference with their right to freedom of assembly.

14. They invoked Article 11 of the Convention, which provides as follows:

“1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.”

A. Admissibility

15. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits*1. Arguments of the parties***(a) The applicants**

16. The applicants argued that the interference complained of had not been lawful, since the authorities had interpreted in an overarching manner the relevant provision of the Assembly Act so as to be able to ban the event. Nor had the interference pursued any legitimate aim, since the reasons underlying the ban had been purely political.

17. The applicants argued that the right to freedom of assembly also covered the choosing of the place, time and practical arrangements in respect of the demonstration, and that the ban on using the road leading to the airport had therefore constituted an interference under Article 11 of the Convention.

18. As regards the necessity of the interference, the applicants submitted that the demonstrators' interest in exercising their right to freedom of assembly had outweighed air passengers' right to unhindered access to the airport. They maintained that the potential disturbance to traffic had not justified a complete ban on a demonstration; almost every assembly by its very nature disrupted to a certain extent road traffic, and the public authorities were bound to show a certain degree of tolerance towards peaceful gatherings. They emphasised in this respect that since the demonstration had been planned in order to address the concerns of the employees at the airport, it had been important to organise the event close to the airport itself.

19. Had the demonstration been authorised, it would not have caused any disproportionate obstruction to traffic and it would not have made it impossible for passengers to reach the airport, since it would have been held for no longer than two hours. The organisers had planned to hold the event on the hard shoulder of the road, which was not used ordinarily for traffic and was wide enough to accommodate the anticipated number of participants (some fifty to 100 persons). The applicants also contested the argument that the demonstration would have caused danger to both drivers and the demonstrators, emphasising that in any event a reduced speed limit applied to the road leading to the airport. They also challenged the Government's claim that in the event of an emergency the airport could not have been reached, pointing to a number of alternative routes.

(b) The Government

20. The Government submitted that the interference had been prescribed by law, namely by the relevant provisions of Act no. III of 1989 on the Right to Assembly. Furthermore, it had pursued the legitimate aim of securing the rights of others – that is to say those of other road users.

21. As to its necessity, the Government maintained that the domestic authorities had had to balance the right to assembly and the right to free movement. They stressed that although it had been planned to hold the demonstration on the hard shoulder of the road, it would have necessarily impacted the use of the other lanes of the road and would have hindered or even blocked access to the airport. There were no alternative routes to the terminals of the airport and the demonstration would have also blocked the airport in the event of an emergency. Furthermore, organising an assembly on a road with heavy traffic would have also created a danger to the demonstrators' physical integrity.

2. *The Court's assessment*

22. The Court notes that the Government did not dispute that the applicant could rely on the guarantees contained in Article 11; nor did they deny that the ban on the demonstration had interfered with the exercise of their rights under that provision. It sees no reason to hold otherwise.

23. The Court observes that the ban was based on section 8(1) of the Assembly Act (see paragraph 12 above) and considers that it was thus prescribed by law. Moreover, the Court is satisfied that the measure complained of pursued the legitimate aims of preventing disorder and protecting the rights of others.

24. It remains to be ascertained whether the interference complained of was "necessary in a democratic society". In this respect the Court refers at the outset to the principles set out in paragraphs 142 to 160 of the judgment *Kudrevičius and Others v. Lithuania* ([GC], no. 37553/05, ECHR 2015, see also *Körtvélyessy v. Hungary*, no. 7871/10, §§ 24-27, 5 April 2016).

25. The Court observes that in the domestic court decision dealing with the case, the basis for upholding the ban on the assembly related exclusively to traffic issues (see paragraphs 9 and 11 above). The Government's submissions were, in essence, confined to the affirmation that the demonstration would have seriously hampered the free flow of traffic in the area (see paragraph 21 above).

26. In this connection, the Court reiterates that since overcrowding during a public event is fraught with danger, it is not uncommon for State authorities in various countries to impose restrictions on the location, date, time, form or manner of conduct of a planned public gathering (see *Primov and Others v. Russia*, no. 17391/06, § 130, 12 June 2014). Furthermore, a demonstration in a public place may cause a certain level of disruption to ordinary life, including disruption to traffic. However, where demonstrators do not engage in acts of violence, it is important for public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 is not to be deprived of all substance (see *Nurettin Aldemir and Others v. Turkey*, nos. 32124/02 and 6 others, § 43, 18 December 2007, and *Budaházy v. Hungary*, no. 41479/10,

§ 34, 15 December 2015). The appropriate “degree of tolerance” cannot be defined *in abstracto*: the Court must look at the particular circumstances of the case and particularly at the extent of the “disruption to ordinary life”. This being so, it is important for associations and others organising demonstrations, as actors in the democratic process, to abide by the rules governing that process by complying with the regulations in force (see *Kudrevičius and Others*, cited above, § 155).

27. Turning to the circumstances of the present case, the Court finds that the Government have not demonstrated that the national authorities based their decisions on an acceptable assessment of the relevant facts. It sees no reason to doubt the domestic courts’ findings to the effect that the demonstration held next to the road leading to the airport would have affected the flow of traffic leading to the airport. However, the Court also notes that the organisers of the demonstration had undertaken not to provoke a major disruption to traffic or significant inconvenience for road-users, explaining that the number of demonstrators would be limited to fifty to 100 persons and they would only use the hard shoulder of the road, that the event would not last longer than two hours, and that it would be called off immediately if the demonstrators started to act unlawfully or if it exceeded the scope of the permit issued by the authorities (see paragraphs 6 and 8 above).

28. The Court is therefore not convinced by the Government’s explanation to the effect that the hard shoulder of the road could not have accommodated the demonstration without jeopardising access to the airport. Moreover, the Government’s contention that the demonstration could have endangered a rescue operation in the event of an emergency is largely a matter of speculation. Furthermore, no disruption to ordinary life and traffic was intended by the organisers and it would have constituted only a side-effect of a demonstration held in a public place (compare and contrast, *Kudrevičius and Others*, cited above, § 170).

29. Furthermore, the Court observes that the site where the applicants had intended to hold their demonstration had a symbolic importance for the employees of the airport, and it is for this reason that they insisted on organising the demonstration there. The Court considers that in the present case it was the authorities’ duty to reflect on possible alternative solutions and propose other arrangements to the organisers (see *Primov and Others*, cited above, § 131). The domestic authorities nonetheless did not embark on an assessment of whether the employees of the airport had at their disposal alternative means of protecting their interest. Instead of considering measures which could have allowed the assembly to proceed in a manner that did not cause undue disturbance to road traffic in the proximity of the airport, the authorities imposed a ban on it. They resorted to the most radical measure of denying the applicants the possibility of exercising their right to freedom of assembly.

30. Thus, a fair balance between the legitimate aim and the means for attaining it was not attained. Accordingly, the Court does not consider that disruption to the traffic in the direction of the airport was sufficient reason for a total ban on the demonstration.

31. Accordingly, there has been a violation of Article 11 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

32. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

33. The applicants jointly claimed 5,000 euros (EUR) in respect of non-pecuniary damage.

34. The Government contested the claim.

35. The Court considers that the finding of a violation constitutes sufficient just satisfaction for any non-pecuniary damage the applicants may have suffered (see, *mutatis mutandis*, *Körtvélyessy v. Hungary* (no. 3), no. 58274/15, § 26, 3 October 2017; *Sáska v. Hungary*, no. 58050/08, § 27, 27 November 2012; and *Patyi and Others v. Hungary*, no. 5529/05, § 53, 7 October 2008).

B. Costs and expenses

36. The applicants also jointly claimed EUR 8,000, plus VAT, for the costs and expenses incurred before the Court. This amount corresponded to forty hours of legal work billed by their lawyer at an hourly rate of EUR 200 plus VAT.

37. The Government contested this claim.

38. According to the Court’s case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award to the applicants jointly EUR 2,000 for the proceedings before the Court.

C. Default interest

39. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT,

1. *Declares*, unanimously, the application admissible;
2. *Holds*, by four votes to three, that there has been a violation of Article 11 of the Convention;
3. *Holds*, by five votes to two, that the finding of a violation constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicants;
4. *Holds*, by four votes to three,
 - (a) that the respondent State is to pay the applicants jointly, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 2,000 (two thousand euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
5. *Dismisses*, by five votes to two, the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 22 May 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Maridalena Tsirli
Registrar

Ganna Yudkivska
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the following separate opinions are annexed to this judgment:

- (a) joint partly dissenting opinion of Judges Yudkivska, Ranzoni and Ravarani;
- (b) joint partly dissenting opinion of Judges Vehabović and Kūris.

G.Y.
M.T.

JOINT PARTLY DISSENTING OPINION OF JUDGES YUDKIVSKA, RANZONI AND RAVARANI

I. Introduction

1. We have voted against the finding of a violation of Article 11 of the Convention in the present case because we disagree with the majority's application of the general principles and their assessment of the relevant facts (see paragraphs 27-30).

2. The present case can be summarised as follows. The applicants requested authorisation to hold a demonstration on the road leading to the Budapest International Airport. The police department scheduled a meeting with the organisers in order to clarify some details. This meeting took place the same day, and the representative of the police department suggested that the demonstration be held at another location, since the planned venue would endanger traffic. It was argued that access to the airport would be hindered or even blocked, and that the demonstrators' physical integrity would be at risk given the intensity and speed of vehicle traffic at the requested location. However, the applicants seemed to insist on the location. Still on the same day, the police department prohibited the demonstration because it would endanger traffic, render the airport inaccessible and breach the traffic code. The High Court approved that decision and its reasoning (see paragraphs 6-11 of the judgment).

3. We agree with the majority that banning the demonstration constituted interference with the applicants' rights under Article 11 of the Convention, and that this interference was lawful and pursued legitimate aims (see paragraphs 22-23). To our mind, this interference was also necessary for preventing disorder and protecting the rights of others.

II. General principles

4. The general principles set out in paragraphs 24 and 26 of the judgment are accurate, but insufficient. Therefore, we shall, at the outset, refer to some additional principles established in the Court's case-law.

5. Any demonstration in a public place may cause a certain level of disruption to ordinary life, including disruption of traffic, but this fact in itself does not justify an interference with the right to freedom of assembly. It is important for the public authorities to show a certain degree of tolerance, the degree of which cannot be defined *in abstracto*. The Court must rather look at the specific circumstances of the case and particularly at the extent of the "disruption" to ordinary life (see *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, § 155, ECHR 2015, with further references). In this respect, it has held that restrictions on freedom of peaceful assembly

in public places may serve to protect the rights of others with a view to preventing disorder and maintaining an orderly flow of traffic (see *Éva Molnár v. Hungary*, no. 10346/05, § 34, 7 October 2008). Since overcrowding during a public event is fraught with danger, it is not uncommon for State authorities to impose restrictions on the location, date, time, form or manner of conduct of a planned public gathering (see *Primov and Others v. Russia*, no. 17391/06, § 130, 12 June 2014).

6. The Contracting States enjoy a certain, albeit not unlimited margin of appreciation when examining whether restrictions on the rights and freedoms guaranteed by the Convention can be considered necessary (see *Barraco v. France*, no. 31684/05, § 42, 5 March 2009). Furthermore, the Court's task is not to substitute its own view for that of the relevant national authorities but rather to review under Article 11 the decisions they took. This does not mean that it has to confine itself to ascertaining whether the State exercised its discretion reasonably, carefully and in good faith; it must look at the interference complained of in the light of the case as a whole and determine in particular whether the reasons adduced by the national authorities to justify it were "relevant and sufficient" (see *Kudrevičius and Others*, cited above, § 143).

7. As regards the establishment of the relevant facts, according to the Court's long-standing case-law it would require cogent elements to lead it to depart from the national authorities' and courts' findings of fact. The Court must be cautious in taking on the role of a first-instance tribunal of fact, where this is not rendered unavoidable by the circumstances of a particular case.

In the context of demonstrations the Court has held that the domestic authorities were best placed to evaluate the security risks and those of disturbance as well as the appropriate measures dictated by the risk assumption (see *Fáber v. Hungary*, no. 40721/08, § 42, 24 July 2012), and that the Court could not question the national courts' assessment, unless it was manifestly unreasonable or there was clear evidence of arbitrariness (see *Budaházy v. Hungary*, no. 41479/10, § 40, 15 December 2015, with reference to *Sisojeva and Others v. Latvia* (striking out) [GC], no. 60654/00, § 89, ECHR 2007-I).

III. Assessment of the present case

8. The domestic authorities banned the demonstration essentially for safety reasons, since the applicants intended to hold their demonstration on the hard shoulder of the road leading to the airport and this venue would have endangered traffic. We note that the applicant had chosen the venue, which they believed was necessary to convey their message – employees of the airport face serious financial problems. It seems therefore that their targeted audience was not only the general public, but also the airport's

management. It does not appear, however, nor was it claimed, that the requested location was the only or the most appropriate place to reach their audience, or that the authorities were unable to propose suitable alternatives.

9. First of all, as regards the desired location, as the Government have explained without contradiction from the applicants, this part of the road was closed to regular traffic and was reserved for vehicles saving lives and properties in an airport emergency situation. The relevant road section, the so-called “security reserve route”, was built for the specific purpose of ensuring access in the event of such an emergency situation at the international airport. However, the majority were not convinced by this argument and simply held that the Government’s contention that the demonstration could have endangered a rescue operation in the event of an emergency was “largely a matter of speculation” (see paragraph 28).

We fail to see on what basis the majority waves aside the authorities’ argument with this rather “sloppy” reasoning. The domestic court shared the police authority’s position that there were no alternative routes to specific areas of the airport. The Court lacks any elements, let alone cogent elements, which could lead it to depart from these and other findings of fact by the national authorities and courts, whose assessment does not show any appearance of arbitrariness.

10. Secondly, the total of up to 100 demonstrators would have parked their cars and buses on the closed area and proceeded to distribute flyers to car passengers. In our view, this obviously would have entailed a safety risk not only for the car passengers, but also for the demonstrators themselves. The Government pointed out that all three locations designated, where a speed limit of 50 km/h was in force, posed a risk of accident on account of the dense vehicle flow and the short distance between the demonstrators and the vehicles passing on the road; safe and accident-free traffic would have been endangered to a significant extent. However, the majority did not even assess this aspect. In fact, they simply noted that the organisers of the demonstration “had undertaken” not to provoke a “major” disruption to traffic or “significant” inconvenience for road-users (see paragraph 27). Is that an acceptable approach? Does the organisers’ good will, which is not in doubt, suffice to eliminate the safety risk? We do not think so.

In this regard, the States’ positive obligations under Articles 1 and 3 of the Convention need to be taken into account. States are required to take measures designed to ensure that individuals within their jurisdiction are not subjected to treatment contrary to Article 3 (see, for example, *A. v. the United Kingdom*, 23 September 1998, § 20, Reports of Judgments and Decisions 1998-VI). The corresponding duty to ensure not only the safety of the demonstrators, but also the safety of other road users, in particular people in passing vehicles, and, in the case of an emergency situation, people within the airport area, must be weighed against the applicants’ rights under Article 11 of the Convention. In this balancing exercise

national authorities are, in principle, better placed than an international court, and that is exactly the reason why member States enjoy a margin of appreciation (see paragraph 6 above).

Apart from these paramount safety considerations, it is worth mentioning that access to an airport is also a sensitive area for passengers who would risk missing their flights due to a major hold-up of traffic at the prospective demonstration venue (given the planned duration of the event) and in the absence of alternative roads.

11. Against this background, we are of the opinion that in justifying the ban on the demonstration at the specific area on the road leading to the international airport the domestic police authorities and courts and the Government, put forward weighty arguments relating, in particular, to safety risks, which were not, or at least not sufficiently, addressed by the applicants. The assessment conducted at national level seems reasonable in the circumstances of the case, and the decisions were based on proper grounds (see, *a contrario*, *Güneri and Others v. Turkey*, nos. 42853/98, 43609/98 and 44291/98, § 79, 12 July 2005). In this respect, the respondent State has not overstepped its margin of appreciation (see *Berladir and Others v. Russia*, no. 34202/06, § 58, 10 July 2012).

12. Finally, the majority considered that it was the authorities' duty to reflect on possible alternative solutions and propose other arrangements to the organisers, but that they did not embark on such an assessment (see paragraph 29). This raises, firstly, the question whether such a positive obligation actually exists in the Court's case-law under Article 11 of the Convention. The majority refer in this regard to *Primov and Others* (cited above, § 131). However, in that case the Court applied such a requirement in the circumstances of "the present case", meaning that the positive obligation depends on the factual situation of each specific case. Furthermore, the *Primov* judgment refers to *Barankevich v. Russia* (no. 10519/03, § 33, 26 July 2007). This case, however, concerned Articles 11 and 9, and the Court therefore particularly emphasised the specific religious aspect of the banned assembly.

Be that as it may, in the instant case the Hungarian authorities did actually suggest that the demonstration be held at another location (see paragraph 8 of the judgment) and thereby fulfilled the said requirement. The majority either overlooked this fact or deliberately put it aside without giving any explanation. Anyway, the argumentation in paragraph 29 of the judgment is untenable.

13. The majority seem to have based their assessment of the case on the assumption that the national authorities acted in bad faith and that their decision to ban this specific demonstration had an ulterior purpose. We would, of course, agree that the prior notification of a demonstration and the institution of preliminary administrative procedures in this respect should not represent hidden obstacles to the freedom of peaceful assembly

protected by the Convention (see *Kudrevičius and Others*, cited above, § 148, and *Balçık and Others v. Turkey*, no. 25/02, § 49, 29 November 2007). However, in situations like the present one, prior notification proceedings were essential to enable the authorities to diminish any anticipated disturbance of the rights of others, for example by redirecting the traffic, or to propose alternatives if such disturbance proved significant. In the present case there was no objective elements evidence to assume any bad faith on the authorities' part. On the contrary, the police department registered the request and, on the same day, invited and met with the organisers in order to clarify details regarding the demonstration and discuss possible other locations (see paragraphs 7 and 8 of the judgment). The applicants rejected such alternative solutions out of hand. Moreover, before the Court they failed to show that in their case the domestic procedures had set up hidden obstacles to their freedom of assembly or that the decisions taken had had any ulterior motive.

14. In sum, it is widely recognised that in a democratic society roads and streets are designed not only for walking and driving, but also for meetings, processions, and other events; in other words they are not only a sphere of circulation, but a space for communication as well. As mentioned above, a prior notification system allows the authorities to achieve peaceful coexistence of both aims. In the present case, however, a proper balance between the different interests at stake could not have been achieved by less intrusive measures than prohibiting the demonstration in question, since the location requested by the applicants ruled out the adoption of preventive measures sufficient to guarantee the safety of the participants and the occupants of passing cars, and because the applicants did not cooperate with the authorities in choosing an alternative location.

IV. Conclusion

15. We consider that in the circumstances of the present case the national authorities acted within their margin of appreciation and provided relevant and sufficient reasons, referring to a legitimate aim, for opposing the event in the planned location. To our mind, therefore, there has been no violation of Article 11 of the Convention.

JOINT PARTLY DISSENTING OPINION OF JUDGES
VEHABOVIĆ AND KŪRIS

1. In *Bukta and Others v. Hungary* (no. 25691/04, § 45, 17 July 2007), *Patyi and Others v. Hungary*, no. 5529/05, § 53, 7 October 2008), *Sáska v. Hungary* (no. 58050/08, § 27, 27 November 2012), *Körtvélyessy v. Hungary* (no. 7871/10, § 36, 5 April 2016), *Körtvélyessy v. Hungary* (no. 2) (no. 58271/15, § 27, 18 July 2017) and *Körtvélyessy v. Hungary* (no. 3) (no. 58274/15, § 26, 3 October 2017) the Court considered that the finding of a violation of Article 11 of the Convention constituted sufficient just satisfaction for any non-pecuniary damage the applicants might have suffered. Some of these cases are rightly mentioned in paragraph 35 of the judgment.

2. While not challenging *ex post facto* the said considerations in these particular cases (after all, one of us was a member of the Chamber in certain of them), we think that this pattern should not be followed in the instant case. Perhaps it should even be abandoned. The State should not be able to evade its responsibility so easily, with nothing more tangible than a sheer declaration that there has been a violation, in circumstances where certain violations of the Convention appear to have become routine and repetitive. Article 41 explicitly states that, “if necessary”, just satisfaction is awarded to the injured party if the internal law of the State concerned allows only partial reparation to be made. In the instant case no reparation can be envisaged at the domestic level – not even “partial”. Does this not compel the Court to conclude that an award of just satisfaction to the applicants is “necessary”? Or, if the Court considers that such an award is not “necessary”, to provide at least some reasons for this consideration, as required by Article 45? A blunt statement that the Court “considers” amounts to saying virtually nothing, because pronouncing that the Court “considers” something is a *fiat*, but by no means a consideration or reasoning. The references to *Patyi and Others*, *Sáska* or *Körtvélyessy* (no. 3) (all cited above) do not help at all, they only disguise the absence of reasoning, because reasons are also not provided in any of these judgments – only *fiats* (sometimes with references to earlier *fiats*).

3. The coin has two sides. There exists another approach to dealing with applicants’ claims under Article 41 in cases similar to the instant one, in that they all involve an advance ban on demonstrations. In *Patyi v. Hungary* (no. 35127/08, § 31, 17 January 2012) the Court held that “the applicant must have suffered some non-pecuniary damage and award[ed] him, on the basis of equity, EUR 2,400”. The same goes for *Szerdahelyi v. Hungary* (no. 30385/07, § 39, 17 January 2012). It would not be easy to discern any difference between these two cases and the instant one which would be relevant for the purposes of Article 41.

4. We have limited ourselves to cases involving advance bans as a result of which demonstrations did not take place, and only against one and the same State, Hungary. The list, however, could be extended so as to include cases against other States. See, for example, *Barankevich v. Russia* (no. 10519/03, § 44, 26 July 2007) or *Hyde Park and Others v. Moldova* (no. 2) (no. 45094/06, § 33, 31 March 2009). Some consistency between the “Hungarian” case-law and its “extra-Hungarian” counterparts, let alone “internal” consonance, would perhaps do no harm.