



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

FIRST SECTION

CASE OF PANNON PLAKÁT KFT AND OTHERS v. HUNGARY

(Application no. 39859/14)

JUDGMENT

Art 34 • Victim • Right of individual petition neither a proprietary right nor transferable

Art 1 P1 • Control of the use of property • Disproportionate statutory ban on roadside advertising hoardings outside built-up areas extinguishing substantial part of applicant companies' businesses • Legitimate aim of road traffic safety • Impugned measure of an unexpected and partly retroactive nature • Very short and insufficient transitory period to allow for adequate arrangements in response to impending change to major revenue source • Lack of compensatory scheme • Excessive burden placed on applicant companies • Wide margin of appreciation overstepped

Art 41 • Just satisfaction • Pecuniary and non-pecuniary damage • Combined award for lost opportunities and frustration suffered due to legislative interference amounting to a violation of Art 1 P1

STRASBOURG

6 December 2022

FINAL

22/05/2023

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

In the case of Pannon Plakát Kft and Others v. Hungary,

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

Krzysztof Wojtyczek, *Acting President*,

Marko Bošnjak,

Alena Poláčeková,

Erik Wennerström,

Raffaele Sabato,

Lorraine Schembri Orland,

Davor Derenčinović, *judges*,

and Renata Degener, *Section Registrar*,

Having regard to:

the application (no. 39859/14) against Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by Pannon Plakát Kft, Gandalf Produkció Kft, Holczmann Bt, Kroc Kft, Ryas Reklám Kft, Urbánus Reklám Kft and Út Reklám Kft (“the applicant companies”), on 15 May 2014;

the decision to give notice to the Hungarian Government (“the Government”) of the complaints concerning Article 1 of Protocol No. 1 to the Convention and Article 10 of the Convention;

the parties’ observations;

the additional information submitted by the applicant companies;

Having noted that Mr Péter Paczolay, the judge elected in respect of Hungary, withdrew from sitting in the case (Rule 28 § 3 of the Rules of Court) and that, accordingly, the President of the Chamber appointed Mr Marko Bošnjak to sit as an *ad hoc* judge (Article 26 § 4 of the Convention and Rule 29 § 2 of the Rules of Court);

Having deliberated in private on 13 September and 15 November 2022,

Delivers the following judgment, which was adopted on the last-mentioned date:

INTRODUCTION

1. The case concerns the alleged interference with the applicant companies’ rights under Article 1 of Protocol No. 1 to the Convention and Article 10 of the Convention as a result of a series of legislative amendments which ultimately banned roadside advertising hoardings outside built-up areas, thereby extinguishing a substantial part of their business.

THE FACTS

2. The first applicant company, Pannon Plakát Kft, is a limited liability company with its registered office in Budapest. The second applicant company, Gandalf Produkció Kft, became insolvent and was liquidated on

20 December 2018. The third applicant company, Holczmann Bt, is a limited partnership company with its registered office in Budapest. The fourth applicant company, Kroc Kft, is a limited liability company with its registered office in Budapest. The fifth applicant company, Ryas Reklám Kft, was voluntarily wound up on 12 September 2018. The sixth applicant company Urbánus Reklám Kft, is a limited liability company with its registered office in Budapest. The seventh applicant company, Út Reklám Kft, is a limited liability company with its registered office in Újlengyel.

3. On 6 May 2022 a company called Médiaház Kft and a natural person, Mr Sándor Orosz, were introduced by the applicant companies' legal representative as applicants taking over the claims of the second and fifth applicant company for reasons explained below in paragraph 18.

4. The applicant companies were represented by Mr Zs. Lajer, a lawyer practising in Budapest.

5. The Government were represented by their Agent, Mr Z. Tallódi, of the Ministry of Justice.

6. The facts of the case may be summarised as follows.

7. The applicant companies are advertising companies which operated roadside advertising hoardings and derived a substantial part of their income from that activity. Their business is within a specific segment of the out-of-home advertising sector, that is, roadside advertising with assets specifically designed for roadside use and therefore unsuitable for any other type of business activity.

8. Until 14 March 1996 the Road Traffic Act (Act no. I of 1988 on Traffic on Public Roads) prohibited the displaying of roadside hoardings in so far as they presented a risk to traffic safety.

9. Between 15 March 1996 and 31 December 2010, the Road Traffic Act prohibited the installation of roadside hoardings within 50 metres of the axis of roads outside built-up areas. In the case of main roads, dual carriageways and motorways, the distance to be respected was 100 metres.

10. As of 1 January 2011, the Road Traffic Act was amended to completely ban the installation of hoardings exceeding 4 square metres, even beyond the safety distance of 50 or 100 metres, and stated that the public road operator could remove, at the owner of the advertising structure's expense, any hoardings in contravention of the prohibition. The amending law was promulgated on 30 December 2010 and entered into force on 1 January 2011.

11. On 1 July 2011 the Road Traffic Act was amended with a rule permitting the traffic authority to impose fines on owners of land on which hoardings not respecting the new criteria were placed.

12. On 21 October 2011 a governmental decree was issued on the implementation of the statutory regulations contained in the Road Traffic Act as regards advertising installations ("Governmental Decree"). Under the Governmental Decree, which entered into force on 24 October 2011, roadside advertising hoardings located outside built-up areas within a distance of

50 metres from the axis of the road (100 metres in the case of main roads, dual carriageways or motorways), or exceeding 4 square metres even if located beyond the safety distance, were to be considered unlawful, irrespective of the date of their installation. The road maintenance authority was empowered to request the removal of unlawful hoardings and, if unsuccessful, to remove them itself.

13. On 7 August 2012 a further amendment to the Road Traffic Act entered into force. It specified, at a statutory level and in line with the previously adopted Governmental Decree, that not only was the “installation” of roadside hoardings prohibited outside built-up areas, but also their “presence” if they were capable of distracting drivers’ attention. The amendment stipulated that hoardings violating the regulations had to be removed by 30 September 2012. An explanatory memorandum issued by the Parliamentary Committee on Financial and Information Technology Matters in connection with the relevant provision of the bill stated as follows:

“Pursuant to the amendment, a general ban will apply to roadside advertising hoardings, rather than only a prohibition on new installations thereof ... The amendment shall make possible the removal of previously installed but now unlawful hoardings.”

14. On 1 July 2013 the Road Traffic Act was again amended. It prohibited, in general and with only a few limited exceptions, the “presence” of any roadside advertising hoardings outside built-up areas, irrespective of whether they were capable of distracting drivers’ attention.

15. As a result of the ban, the applicant companies lost the possibility to use and rent out a significant number of their previously installed hoardings. Their established businesses were affected as follows:

(i) In the case of Pannon Plakát Kft (“the first applicant company”), 32% of its hoardings were affected, from which 24% of its income originated in 2010;

(ii) In the case of Gandalf Produkció Kft (“the second applicant company”), 73% of its hoardings were affected, which were the source of 54% of its income in 2010;

(iii) In the case of Holcymann Bt (“the third applicant company”), sixty hoardings were affected, representing 55% of its assets and an income of 50 million Hungarian forints (HUF - approximately 167,000 euros (EUR)) in 2010;

(iv) In the case of Kroc Kft (the fourth applicant company”) 8% of its hoardings had to be removed, which were the source of 20% of its income in 2010;

(v) In the case of Ryas Reklám Kft (“the fifth applicant company”), all of its hoardings were affected by the ban, which generated 80% of its income in 2010;

(vi) In the case of Urbánus Reklám Kft (“the sixth applicant company”), 66% of their hoardings were affected, which were the source of 62% of its income in 2010;

(vii) In the case of Út Reklám Kft (“the seventh applicant company”), 40% of its hoardings were affected, which were the source of 97% of its income in 2010.

16. On an unspecified date, before the entry into force of the new Constitutional Court Act on 1 January 2012, the applicant companies referred the legislation to the Constitutional Court in the framework of *actio popularis* proceedings. Under new rules governing Constitutional Court proceedings as from 2012, they maintained their petitions as individual constitutional complaints (see section 26(2) of the Constitutional Court Act, outlined in *Karácsony and Others v. Hungary* [GC], nos. 42461/13 and 44357/13, § 30, ECHR 2016 (extracts)). On 4 November 2013, following an examination on the merits, the Constitutional Court dismissed the complaints and found the relevant legislation (that is to say, the relevant provisions of the Road Traffic Act and the Governmental Decree, as in force since 1 July 2013 and 24 October 2011 respectively) to be constitutional (see Constitutional Court decision no. 3208/2013. (XI. 18.) AB). In its decision, the Constitutional Court noted the short *vacatio legis* afforded by the legislature for the amendments that came into effect on 1 January 2011 but considered, among other things, that the brevity of the period between the promulgation and coming into effect of these amendments was alleviated by the fact that fines for non-compliance could only be issued from 1 July 2011. The decision was served on the applicant companies on 18 November 2013.

17. On 23 June and 15 December 2015 the Road Traffic Act was amended and the previous ban was partially lifted: billboards and other advertising structures were allowed to be placed on streetlights, transmission lines or telephone poles in built-up areas.

18. The second and fifth applicant companies became insolvent and were deleted from the company register – *via* liquidation and voluntary winding-up – on 20 December 2018 and 5 January 2018, respectively. However, prior to the deletion, the second applicant company, on 9 January 2015, assigned its claim pending before the Court to a company called Médiaház Kft, while the fifth applicant company assigned its claim to its shareholder, Mr Sándor Orosz, on 5 January 2018.

RELEVANT LEGAL FRAMEWORK

19. The relevant provisions of the Road Traffic Act, as in force since 7 August 2012, provide as follows:

Section 12(3)

“No advertising hoardings ..., capable of distracting drivers’ attention, may be present next to public roads ... outside built-up areas.”

Section 46/G

“Advertising hoardings ... affected by the ban laid down in section 12(3)(c) above shall be removed by 30 September 2012.”

20. The relevant provisions of the Vienna Convention on Road Traffic of 8 November 1968, promulgated by Hungary through Act no. XCI of 2004, as in force since 26 October 2004, provide as follows:

Preamble

“The Contracting Parties, recognizing that international uniformity of road signs, signals and symbols and of road markings is necessary in order to facilitate international road traffic and to increase road safety, have agreed upon the following provisions...”

Article 6

“Signs shall be so placed that the drivers for whom they are intended can recognise them easily and in time.”

THE LAW

I. THE SECOND AND THE FIFTH APPLICANTS

A. Victim status of Médiaház Kft and Mr Sándor Orosz

21. The Court notes the introduction, on 6 May 2022, of the company called Médiaház Kft and the natural person Mr Sándor Orosz, as applicants in the present case. To substantiate their status as applicants in the present proceedings, they relied on certain assignment agreements concluded with the second and fifth applicant companies, respectively, under which they had allegedly obtained victim status *via* the transfer of claims pending before the Court (see paragraphs 3 and 18 above).

22. The Court must therefore consider whether this is sufficient to grant the status of “victim” to these claimants for the purposes of Article 34 of the Convention.

23. Article 34 of the Convention, in its relevant part, provides as follows:

“The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. ...”

24. The Court reiterates that Article 34 of the Convention sets two conditions: an applicant must fall into one of the categories of petitioners mentioned in Article 34, and he or she must be able to make out a case that he or she is the victim of a violation of the Convention or the Protocols thereto. According to the Court’s established case-law, the concept of “victim” must be interpreted autonomously and irrespective of domestic concepts such as those concerning an interest or capacity to act. In addition,

in order for an applicant to be able to claim to be a victim of a violation of the Convention, there must be a sufficiently direct link between the applicant and the harm which they consider they have sustained on account of the alleged violation (see, among other authorities, *Gorraiz Lizarraga and Others v. Spain*, no. 62543/00, § 35, ECHR 2004-III, with further references).

25. In the present case the company called Médiaház Kft and the natural person Mr Sándor Orosz have sought to take over, by a deed of assignment, that is to say, an onerous contract under domestic civil law, the right of individual petition from the second and fifth applicant companies.

26. According to the Court's settled case-law, the right of individual petition under Article 34 of the Convention is not a proprietary right. Nor is it transferable as if it were. Whatever the validity in terms of domestic law of the transaction here in issue, it would be out of keeping with the nature of the Convention as an instrument protecting basic human rights and the Court itself as its guardian to allow the status of applicant to be transferred at will (see *Nassau Verzekering Maatschappij N.V. v. the Netherlands*, no. 57602/09, § 25, 4 October 2011).

27. It follows that the application, to the extent that it concerns these two claimants, is for their lack of victim status incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

B. Application of Article 37 § 1 of the Convention

28. The relevant parts of Article 37 § 1 of the Convention provide as follows:

“1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that

...

(c) for any other reason established by the Court, it is no longer justified to continue the examination of the application ...

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires.”

29. The Court observes that Gandalf Produkció Kft (the second applicant company) became insolvent and was liquidated on 20 December 2018. It further observes that on 12 September 2018 Ryas Reklám Kft (the fifth applicant company) was voluntarily wound up (see paragraph 18 above).

30. The Court notes that this fact may constitute an “other reason” for which “it is no longer justified to continue the examination of the application” within the meaning of Article 37 § 1 (c) of the Convention provided “respect for human rights as defined in the Convention and the Protocols thereto” does not require otherwise, pursuant to Article 37 § 1 *in fine* of the Convention.

31. Given that the applicant companies' claim was predominantly pecuniary in nature, the Court finds no special circumstances relating to respect for human rights as defined in the Convention and its Protocols which require it to continue the examination of the application in respect of the second and fifth applicant companies (contrast, for example, *OAO Neftyanaya Kompaniya Yukos v. Russia*, no. 14902/04, § 443, 20 September 2011, where apart from an issue under Article 1 of Protocol No. 1 the Court considered various other alleged violations under Articles 6, 7, 13, 14 and 18 of the Convention; *Akpaz Société à responsabilité limitée v. Turkey*, no. 6800/09, §§ 49-52, 18 January 2022, where during the proceedings before the Court the applicant company was re-registered to the company register following its deletion; and *Titan Total Group S.R.L. v. the Republic of Moldova*, no. 61458/08, § 44, 6 July 2021, where the Court considered alleged breaches of Article 6 and 13 of the Convention and Article 1 of Protocol No. 1 and, pending liquidation proceedings, the company in question was represented by the liquidator before the Court).

32. Accordingly, the application in respect of these applicant companies should be struck out of the Court's list of cases.

II. THE FIRST, THIRD, FOURTH, SIXTH AND SEVENTH APPLICANTS

A. Alleged violation of Article 1 of Protocol No. 1 to the Convention

33. The applicant companies complained that the loss of ability to operate their previously installed advertising hoardings and the ban on the future installation of such assets had amounted to an unjustified interference with their right to the peaceful enjoyment of possessions as provided for in Article 1 of Protocol No. 1 to the Convention, which reads as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

1. Admissibility

34. The Court notes that these complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

2. *Merits*

(a) **The parties' submissions**

(i) *The applicant companies*

35. The applicant companies argued that the impugned measure had amounted to a deprivation of their possessions *via de facto* expropriation since the ban on roadside advertising hoardings had made it impossible to use and/or rent out a significant number of their previously installed hoardings. They stressed that the impugned measure did not comply with the requirement of lawfulness as the State had not provided for a sufficient transitional period and that, moreover, no compensation had been afforded to them for the deprivation of their possessions.

36. The applicant companies also submitted that the impugned measure was arbitrary as it had allegedly served the interest of another advertising company, closely linked to the Government at the material time, and that it had not been shown that the roadside hoardings would endanger road safety any more seriously than other types of advertisements which were not prohibited. In the applicant companies' view, this was also corroborated by the partial lifting of the ban in 2015, which discredited the legitimate aim put forward by the Government.

37. The applicant companies further argued that the impugned measure was disproportionate because their possessions had been rendered unusable by the ban – they had had to dismantle their roadside hoardings at their own expense and the lease agreements concluded between them and private parties for the lease of the roadside hoardings for advertisement purposes had had to be prematurely amended or terminated. This burden had not been alleviated by any compensation.

(ii) *The Government*

38. The Government submitted that the impugned measure had not amounted to an interference with the applicant companies' right to the peaceful enjoyment of their possessions because they were not its addressees in that the amendment to the Road Traffic Act affected the owners of plots of land upon which the roadside hoardings were erected and not the applicant companies, who were merely the owners of the roadside hoardings. Moreover, the Government argued that the impugned measure served a legitimate aim as it had been implemented with the intention of reducing the number of traffic accidents by removing advertising hoardings near public roads so as to ensure that the attention of drivers was not distracted. In addition, to corroborate the intention to ensure road traffic safety by removing advertising hoardings, the Government cited the Vienna Convention on Road Traffic of 8 November 1968 (see paragraph 20 above) as imposing an obligation on Hungary to ensure the visibility of road traffic signs by drivers for whom they are intended.

39. The Government further argued that the impugned measure was lawful as it had come into force *ex nunc* – no sanction or obligation had been imposed on the applicant companies with retroactive effect.

40. They stressed that the impugned measure was also proportionate because the statutory prohibition was not absolute; it contained an exception for hoardings not exceeding 4 square metres and had no bearing on the ownership title to the advertising hoardings. Moreover, according to the Government, the restriction on the applicant companies' possessions was proportionate in the light of the specific purpose of the Road Traffic Act.

(b) The Court's assessment

(i) General principles

41. The relevant general principles are set out in *Könyv-Tár Kft and Others v. Hungary* (no. 21623/13, §§ 31 and 41, 16 October 2018).

(ii) Application of the relevant principles to the present case

(α) Applicability of Article 1 of Protocol No.1 to the Convention and the existence of interference

42. The Court notes at the outset that the applicant companies' business is within a specific segment of the out-of-home advertising sector, namely roadside advertising which requires assets, in this case roadside advertising hoardings, specifically designed for roadside use (see paragraph 7 above). Consequently, they are to be considered an inflexible and non-variable type of asset as they are unsuitable for any other type of business activity.

43. The Court further notes that as a consequence of the impugned legislative measure, which interfered with the applicant companies' economic freedom, they lost the ability to use and rent out a significant number of their previously installed hoardings. They consequently had to terminate or amend contracts with existing clients who had publicised their products on the applicant companies' affected assets. In addition, the applicant companies had to cover the costs of removing the roadside hoardings which – given their above-mentioned specific features – could not be used for other revenue-generating purposes. This, in turn, has substantially diminished the applicant companies' income and resulted in a loss of their investments' value (see paragraph 15 above), a fact which was not disputed by the Government.

44. The Court observes that resulting from the legislative interference, the applicant companies lost opportunities on the market. This inevitably entailed a loss of chances for them to make profit, which may translate into a decrease in the equity value of their shares (see *Könyv-Tár Kft and Others v. Hungary* (just satisfaction), no. 21623/13, § 23, 5 October 2021). A decrease in equity value affects not only the interests of the shareholders but also the enterprise value of a company; consequently, the alleged interference may infringe on

the company's rights. The Court recalls that shares in a public company have an economic value and, therefore, are to be regarded as "possessions" within the meaning of Article 1 of Protocol No. 1 to the Convention (see *Marini v. Albania*, no. 3738/02, § 164, 18 December 2007). Moreover, there is no doubt that the applicant companies were the owners of the roadside advertising hoardings – physical goods eligible for protection under Article 1 of Protocol No. 1, which lost most of their economic value as a result of the impugned measure. Given the serious economic consequences flowing from the measure, the Court agrees with the applicant companies that it was a severe measure amounting to an interference with their property rights.

45. The Court also notes that there has been no formal expropriation of the applicant companies' assets, either in favour of the Government or a third party. Whilst it is possible that in certain circumstances there may be a *de facto* expropriation of possessions even without any formal alienation, on the grounds that property has become wholly unusable (see, for example, *Papamichalopoulos and Others v. Greece*, 24 June 1993, §§ 43-45, Series A no. 260-B), the present application does not disclose any such circumstances since the assets in question, while losing their economic value in terms of their primary purpose, could still be sold for parts.

46. It thus finds that there has been an interference with the applicant companies' rights under that provision consisting of a measure entailing control of the use of their property. Such an interference falls to be considered under the second paragraph of Article 1 of Protocol No. 1 (see *Könyv-Tár Kft and Others*, cited above, § 43).

(β) Lawfulness and aim of the interference

47. The Court notes the parties' partly diverging positions as to the lawfulness and purpose of the interference. It reiterates that any interference by a public authority with the peaceful enjoyment of possessions can only be justified if it serves a legitimate public (or general) interest. Because of their direct knowledge of their society and its needs, the national authorities are in principle better placed than the international judge to decide what is "in the public interest". Under the system of protection established by the Convention, it is thus for the national authorities to make the initial assessment as to the existence of a problem of public concern warranting measures interfering with the peaceful enjoyment of possessions. The Court finds it natural that the margin of appreciation available to the legislature in implementing social and economic policies should be a wide one and will respect the legislature's judgment as to what is "in the public interest" unless that judgment is manifestly without reasonable foundation (see *Béláné Nagy v. Hungary* [GC], no. 53080/13, § 113, 13 December 2016).

48. The Court – mindful of the importance of road traffic safety and the respondent State's obligations enshrined in the Vienna Convention on Road Traffic of 8 November 1968 (see paragraph 20 above) – does not call into

question the Government's position that the measure served the purpose of reducing traffic accidents by removing advertising hoardings from the vicinity of public roads so as to ensure that the attention of drivers is not distracted and that road signs are clearly visible. Furthermore, for want of any material evidence, it cannot subscribe to the allegations raised by the applicants to the effect that the impugned measure served the interest of another advertising company closely linked to the Government at the material time.

49. The Court therefore considers that the goals of the impugned measure, as cited by the Government, cannot be said to be "manifestly without reasonable foundation". It therefore finds the measure to be lawful and pursuing a legitimate aim.

(γ) Proportionality of the measure

50. As was pointed out in *James and Others v. the United Kingdom* (21 February 1986, § 37, Series A no. 98), the second paragraph of Article 1 of Protocol No. 1 has to be construed in the light of the general principle set out in the first sentence of that provision. That sentence has been interpreted by the Court as including the requirement that a measure of interference should strike a "fair balance" between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. The search for this balance is reflected in the structure of Article 1 of Protocol No. 1 as a whole (*ibid.*) and hence also in the second paragraph. There must be a reasonable relationship of proportionality between the means employed and the aim sought to be realised. A proper balance between the general interest and the individual's rights will not be found if the person concerned has had to bear an individual and excessive burden (see *Vékony v. Hungary*, no. 65681/13, § 32, 13 January 2015).

51. The Court accepts that, in the present case, the competent authorities enjoy a wide margin of appreciation for the purposes of Article 1 of Protocol No. 1. Their assessment as to the need for legislation, its aims and its effects should be accepted by the Court unless it was manifestly unreasonable and imposed an "excessive burden" on the person concerned (*ibid.*, § 33).

52. The applicant companies submitted – and this argument was not refuted by the Government – that the impugned measure had significantly reduced their income and resulted in a loss of clientele and goodwill (see paragraph 37 above). Given the serious economic consequences, the Court agrees with the applicant companies that it was a severe measure in the circumstances.

53. The Court further observes that only two days had passed between the promulgation of the first amendment on 30 December 2010 and its coming into effect on 1 January 2011, the date from which the installation of new roadside hoardings was prohibited. This measure undisputedly had a direct

effect on the applicant companies' businesses by impelling them to terminate or amend their already existing contractual relationships with their clients and the limitations on signing new contracts. The burden that this short transitory period placed on the applicant companies was only to a limited extent alleviated by the fact that, by virtue of further statutory amendments, a fine for non-compliance with the impugned measure could only be imposed six months after the coming into effect of the amendments to the Road Traffic Act (see paragraph 11 above). This is because the competent authority could already, from 1 January 2011, forcibly remove the applicant companies' property, that is, the roadside advertising hoardings, at the applicant companies' expense, thereby placing an immediate financial burden on them. Moreover, from 24 October 2011, not only was the "installation" of roadside hoardings prohibited outside built-up areas, but also their "presence". The later statutory amendment also stipulated that hoardings violating the regulations had to be removed by 30 September 2012, that is, less than two months from the entry into force of the statutory amendment (7 August 2012) requiring the removal of already installed roadside hoardings. These measures – contrary to the argument put forward by the Government – in reality had retroactive effect (see paragraphs 13 and 39 above).

54. In the context of businesses operating under a legal framework that was essentially stable for more than ten years (see paragraph 9 above), such short transitory periods can hardly be regarded as sufficient (compare and contrast *Ian Edgar (Liverpool) Ltd v. the United Kingdom* (dec.), no. 37683/97, ECHR 2000, and *C.A. Zrt. and T.R. v. Hungary* [Committee], nos. 11599/14 and 11602/14, § 36, 1 September 2020, where progressively more restrictive legislation over a long period foreshadowed the possibility of a ban). Also considering the fact that the Road Traffic Act prior to the adoption of the impugned measure, between 15 March 1996 and 31 December 2010, already prohibited the placement of roadside hoardings in so far as they presented a risk to traffic safety (see paragraph 9 above), the applicant companies had a legitimate expectation of continuing their business activity. Therefore, while the impugned measure was sufficiently foreseeable from a qualitative perspective, that is to say, its formulation was made with sufficient precision, it was unexpected in the context of the present case (contrast *C.A. Zrt. and T.R. v. Hungary* [Committee], cited above, § 36).

55. Furthermore, the burden placed on the applicant companies as a result of the statutory ban on part of their business activity, although heavy, must be weighed against the general interest of the community, that is, public safety considerations in the instant case. In this context, the States enjoy a wide margin of appreciation. As considered earlier, the goals of the impugned measure cited by the Government cannot be said to be "manifestly without reasonable foundation" (see paragraph 49 above) but quite on the contrary were in line with the respondent State's international obligations (see paragraph 20 above) and, as already stressed above, pursued the legitimate

aim of ensuring an important public interest, namely, road traffic safety (see paragraph 48 above).

56. Although it is true that the interference with the applicant companies' possessions was a control of use rather than a deprivation of possessions, such that the case-law on compensation for deprivation is not directly applicable (see *Vékony*, cited above, § 35), a disproportionate and arbitrary control measure cannot satisfy the requirements of Article 1 of Protocol No. 1. It is noteworthy that the very short period provided to the applicant companies to make adequate arrangements to respond to the impending change to their major source of revenue was not alleviated by any positive measures on the part of the State, for example, the adoption of a scheme of reasonable compensation (contrast *Pinnacle Meat Processors Company and 8 Others v. the United Kingdom* (dec.), no. 33298/96, 21 October 1998, and *Ian Edgar (Liverpool) Ltd*, cited above).

57. Moreover, the Government failed to advance any argument concerning the relative brevity of the transitory period, making no reference to any pressing economic or social need which could have prevented a longer period being afforded. In particular, for the Court, while the aim of reducing traffic accidents by removing advertising hoardings from the vicinity of public roads so as to ensure that the attention of drivers is not distracted is undoubtedly relevant, it cannot be considered to correspond to an exceptional circumstance which would allow the transitory period to be shortened (compare and contrast with *Jahn and Others v. Germany* [GC], nos. 46720/99 and 2 others, §§ 116-17, ECHR 2005-VI).

58. In sum, having regard to the partly retroactive nature of the impugned measure, its unexpected nature, the short transitory period, the lack of any compensatory scheme and the importance that the extinguished business activity had for the applicant companies, the Court concludes – even bearing in mind the wide margin of appreciation afforded to the State in this type of policies and the importance of road traffic safety – that the interference with the applicant companies' rights was disproportionate to the aim pursued and that they had to bear an individual and excessive burden. A disproportionate measure, especially without any scheme of compensation, does not satisfy the requirements of the protection of possessions under Article 1 of Protocol No. 1 (see, *mutatis mutandis*, *Vékony*, cited above, § 35, and *Valle Pierimpiè Società Agricola S.P.A. v. Italy*, no. 46154/11, §§ 74-77, 23 September 2014).

59. There has accordingly been a violation of Article 1 of Protocol No. 1 to the Convention.

B. Alleged violation of Article 10 of the Convention

60. The applicant companies further complained that the restrictions imposed by the Road Traffic Act had violated their right to freedom of

expression under Article 10 of the Convention. Having regard to the facts of the case, the submissions of the parties, and its findings above, the Court considers that it has examined the main legal questions raised in the present application. Consequently, there is no need to give a separate ruling on the remaining complaint (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

C. Application of Article 41 of the Convention

61. 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.”

1. Damages

62. The first applicant company claimed 788,695.96 euros (EUR) in respect of pecuniary damage and EUR 10,000 in respect of non-pecuniary damage.

The third applicant company made no claim in respect of pecuniary or non-pecuniary damage.

The fourth applicant company claimed EUR 544,111.21 in respect of pecuniary damage and EUR 10,000 in respect of non-pecuniary damage.

The sixth applicant company claimed EUR 488,778.47 in respect of pecuniary damage and EUR 10,000 in respect of non-pecuniary damage.

The seventh applicant company claimed EUR 412,157.84 in respect of pecuniary damage and EUR 10,000 in respect of non-pecuniary damage.

These figures represent the decrease of the companies' equity values, as per expert reports prepared by various company valuation experts, as well as the inconvenience and uncertainty about the companies' future caused by the violation suffered.

63. The Government contested the claims as excessive.

64. The Court reiterates that a judgment in which it finds a breach imposes on the respondent State a legal obligation to put an end to the breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach. If the nature of the breach allows of *restitutio in integrum*, it is for the respondent State to effect it, the Court having neither the power nor the practical possibility of doing so itself. If, on the other hand, national law does not allow – or allows only partial – reparation to be made, Article 41 empowers the Court to afford the injured party such satisfaction as appears to it to be appropriate (see, among many authorities, *Papamichalopoulos and Others v. Greece* (Article 50), 31 October 1995, § 34, Series A no. 330-B; *Iatridis v. Greece* (just

satisfaction) [GC], no. 31107/96, §§ 32-33, ECHR 2000-XI; and *Kurić and Others v. Slovenia* (just satisfaction) [GC], no. 26828/06, § 80, ECHR 2014).

65. The present case concerns a violation of the peaceful enjoyment of possessions. Notably, the interference with the applicant companies' rights consisted in a control of use rather than a deprivation of possessions (see paragraph 46 above). Therefore, the case-law on compensation for deprivation of possessions is not directly applicable (see *Könyv-Tár Kft* (just satisfaction), cited above, § 25).

66. However, because the nature of the violation found in the present case does not enable the Court to proceed on the basis of the principle of *restitutio in integrum* (see, *mutatis mutandis*, *Beyeler v. Italy* (just satisfaction) [GC], no. 33202/96, §§ 20-21, 28 May 2002), it considers that an indemnity is capable of compensating for the alleged loss (see, *mutatis mutandis*, *Anonymos Touristiki Etairia Xenodocheia Kritis v. Greece* (just satisfaction), no. 35332/05, § 18, 2 December 2010).

67. The Court further reiterates that legitimate objectives in the "public interest", such as those pursued in measures of economic reform or measures designed to achieve greater social justice, may call for less than reimbursement of the full market value (see *Cauchi v. Malta*, no. 14013/19, § 103, 25 March 2021).

68. Among the matters which the Court takes into account when assessing compensation are pecuniary damage, which is the loss actually suffered as a direct result of an alleged violation, and non-pecuniary damage, which is the anxiety, inconvenience, uncertainty and other non-pecuniary prejudice caused by the violation (see *Žilinskienė v. Lithuania*, no. 57675/09, § 60, 1 December 2015). In addition, if one or more heads of damage cannot be calculated precisely, or if the distinction between pecuniary and non-pecuniary damage proves difficult, the Court may decide to make an overall assessment (see *Comingersoll S.A. v. Portugal* [GC], no. 35382/97, § 29, ECHR 2000-IV).

69. Turning to the applicant companies' claims the Court notes that they submitted expert valuation reports applying different methods of valuation, including the "discounted cash flow" method. Despite elaborate arguments by the applicant companies in this regard, the Court cannot overlook the difficulties in calculating lost profits in circumstances where such profits could fluctuate owing to a variety of unpredictable factors (see *Könyv-Tár Kft* (just satisfaction), cited above, § 31). In this context, the Court observes that future regulatory risk was not taken into account by the valuation experts when calculating the discount rate used to ascertain the loss suffered by the applicant companies, thereby preventing a precise determination of the pecuniary damage. Moreover, various experts were called upon by the applicant companies, which resulted in discrepancies in the calculations and in their underlying methodology (see paragraph 62 above). The Court therefore considers that the circumstances of the case do not lend themselves

to a precise assessment of pecuniary damage, since this type of damage involves many uncertain factors – such as future regulatory risks unaccounted for in the valuation reports submitted by the applicant companies.

70. Without speculating on the profits and corresponding equity value which the applicant companies would have achieved if the violation of the Convention had not occurred and they had been able to continue their normal operations, at least over a longer transitional period, the Court observes that the applicant companies suffered a real loss of opportunities (see paragraph 15 above) and frustration as a result of the violation found in the present case.

71. Making its assessment on an equitable basis, the Court awards, in respect of pecuniary and non-pecuniary damage combined, the first applicant company a lump sum of EUR 240,000; the fourth applicant company a lump sum of EUR 170,000; the sixth applicant company a lump sum of EUR 150,000; and the seventh applicant company a lump sum of EUR 130,000.

2. Costs and expenses

72. The first applicant company also claimed EUR 801.03 for legal fees and EUR 2,815.91 for expert fees incurred before the Court. The third applicant company made no claim for costs and expenses. The fourth applicant company claimed EUR 801.03 for legal fees and EUR 2,383.31 for expert fees. The sixth applicant company claimed EUR 801.03 for legal fees and EUR 1,970.18 for expert fees. The seventh applicant company claimed EUR 801.03 for legal fees and EUR 1,104.84 for expert fees. All these sums include value-added tax.

73. The Government contested these claims as excessive.

74. 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 applicant companies which submitted claims for costs and expenses, jointly, EUR 9,000 under this head to cover all costs and expenses.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints lodged by the company Médiaház Kft and Mr Sándor Orosz inadmissible;
2. *Decides* to strike the application out of its list of cases in respect of the second (Gandalf Produkció Kft) and fifth (Ryas Reklám Kft) applicant companies;

3. *Declares* the complaint under Article 1 of Protocol No. 1 to the Convention submitted by the remaining applicants admissible;
4. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;
5. *Holds* that there is no need to examine the admissibility and merits of the complaint under Article 10 of the Convention;
6. *Holds*
 - (a) that the respondent State is to pay the applicant companies, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 240,000 (two hundred and forty thousand euros), EUR 170,000 (one hundred and seventy thousand euros), EUR 150,000 (one hundred and fifty thousand euros) and EUR 130,000 (one hundred and thirty thousand euros) plus any tax that may be chargeable, in respect of pecuniary and non-pecuniary damage combined, to the first, fourth, sixth and seventh applicant companies, respectively;
 - (ii) to the first, the fourth, the sixth and the seventh applicant companies jointly, EUR 9,000 (nine thousand euros), plus any tax that may be chargeable to them, in respect of costs and expenses;
 - (iii) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
7. *Dismisses* the remainder of the applicant companies' claims for just satisfaction.

Done in English, and notified in writing on 6 December 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Renata Degener
Registrar

Krzysztof Wojtyczek
Acting President

APPENDIX

No.	Applicant's Name	Year of registration	Place of registered office
1.	PANNON PLAKÁT KFT	2007	Budapest
2.	GANDALF PRODUKCIÓ KFT	1997	Újlengyel
3.	HOLCZMANN BT	1992	Budapest
4.	KROC KFT	1994	Budapest
5.	RYAS REKLÁM KFT	2007	Debrecen
6.	URBÁNUS REKLÁM KFT	2003	Budapest
7.	ÚTREKLÁM KFT	2006	Újlengyel