



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

SECOND SECTION

CASE OF DEMIRCI v. HUNGARY

(Application no. 48302/21)

JUDGMENT

Art 1 P7 • Procedural safeguards relating to expulsion of aliens • Expulsion on national security grounds without reasons and on the basis of classified information not disclosed to the first applicant • Significant limitation of his procedural rights without sufficient counterbalancing safeguards • Expulsion not “in pursuance of a decision reached in accordance with law”

Art 8 • *Ratione materiae* • Not shown by the first applicant’s wife and daughter (the second and third applicants) that “family life” existed between them and the first applicant

Prepared by the Registry. Does not bind the Court.

STRASBOURG

6 May 2025

FINAL

06/08/2025

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

In the case of Demirci v. Hungary,

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

Arnfinn Bårdsen, *President*,

Saadet Yüksel,

Jovan Ilievski,

Péter Paczolay,

Gediminas Sagatys,

Stéphane Pisani,

Juha Lavapuro, *judges*,

and Hasan Bakırcı, *Section Registrar*,

Having regard to:

the application (no. 48302/21) against Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Turkish national, Mr Orhan Demirci, and two Hungarian nationals, Ms Margit Demirci and Ms Nadire Demirci (“the applicants”), on 22 September 2021;

the decision to give notice of the application to the Hungarian Government (“the Government”);

the decision by the Government of Türkiye not to exercise their right to intervene in the proceedings in accordance with Article 36 § 1 of the Convention and Rule 44 § 1 of the Rules of Court;

the observations submitted by the Government and the observations in reply submitted by the applicants;

the comments submitted by the European Centre for Law and Justice, which was granted leave to intervene by the President of the Section;

Having deliberated in private on 1 April 2025,

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

INTRODUCTION

1. The case concerns the decision to expel the first applicant from Hungary on national security grounds, without reasons being given. It raises an issue under Article 1 of Protocol No. 7 to the Convention.

THE FACTS

2. The applicants were born in 1953, 1966 and 1995 respectively and live in Arapsuyu (the first applicant) and in Szigetszentmiklós (the second and third applicants). The applicants were represented by Ms B. Pohárnok, a lawyer practising in Budapest.

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

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

5. The first and second applicants are married, and the third applicant is their daughter.

6. The first applicant arrived in Hungary in 1990 and married the second applicant in 1994; their daughter was born in 1995. On 30 June 2000 he was issued with an immigration permit (*bevándorlási engedély*). In 2010 the first applicant was granted permanent resident status (*állandó tartózkodás*) and issued with a permanent resident card, which was valid for ten years, until 4 August 2020.

7. On 21 March 2014 he was convicted of causing serious bodily harm and sentenced to two years' imprisonment, suspended for three years.

I. NATIONAL SETTLEMENT PERMIT PROCEEDINGS

8. On 5 August 2020, due to changes in the legislation and the expiry of his permanent residence card, the first applicant applied for a national settlement permit (*nemzeti letelepedési engedély*).

9. On 28 September 2020 the Constitution Protection Office (*Alkotmányvédelmi Hivatal* – hereinafter “the CPO”) issued an authoritative assessment (*szakhatósági állásfoglalás*), stating that the first applicant's presence in Hungary constituted a risk to national security and a direct and serious risk to public safety, that the applicant did not live in the same household as a Hungarian citizen and that he should be subjected to a five-year ban on re-entry and residence.

10. On 19 October 2020 the Budapest and Pest County Regional Directorate of the National Directorate-General for Aliens Policing dismissed the first applicant's application for a national settlement permit.

11. The first applicant appealed against that decision. The National Directorate-General for Aliens Policing (*Országos Idegenrendészeti Főigazgatóság* – hereinafter “the NDGAP”) made enquiries with the Commander of the National Police Service and the Ministry of the Interior about the first applicant. Whereas according to the Commander of the National Police Service, the first applicant did not constitute a direct and serious threat to public safety, the Ministry of the Interior agreed with the assessment of the Constitution Protection Office that the first applicant constituted a risk to national security. On 22 February 2021 the NDGAP upheld the first-instance decision.

12. The first applicant applied for judicial review of that decision, which was upheld by the Budapest Surroundings High Court on 10 February 2022.

II. EXPULSION PROCEEDINGS

13. On 30 November 2020 the CPO issued a recommendation (*javaslat*) stating that the first applicant endangered or represented a threat to national

security, and that he should be expelled and subjected to a five-year ban on re-entry and residence.

14. Following the recommendation of the CPO, the NDGAP initiated expulsion proceedings. It heard the first applicant on 20 January 2021 in the presence of the second applicant. In the applicants' submission, it was only then that they were informed of the expulsion proceedings. In his statement, the first applicant explained their living situation as follows:

“We have two apartments in Szigetszentmiklós, 100 metres apart. My wife lives in one of them, and my daughter and I live in the other. My wife just inherited an apartment from her parents. My wife's flat is in my daughter's name, the one I live in is in my name. Anyway, I am not quite sure about these things, my wife takes care of them.”

On the same day the NDGAP issued a decision ordering the first applicant's expulsion to Türkiye.

15. A request by the first applicant for the suspension of the expulsion order was dismissed by the Budapest High Court.

16. The administrative decision as to the first applicant's expulsion was upheld by the Budapest High Court on 19 February 2021. The court held that the NDGAP was bound by the CPO's recommendation, both as to the expulsion order and as to the length of the ban on re-entry and residence, and added that it lacked any discretionary power itself in that regard. It pointed out that the evidence relied on by the NDGAP was classified information, which could be accessed by means of a special procedure, but that section 10(1) of Act no. CLV of 2009 on the protection of classified information (hereinafter “the Classified Information Act”) excluded its disclosure in immigration proceedings. The court found that the decision of the NDGAP had sufficiently clarified and properly considered all the relevant circumstances, including the individual circumstances of both the first and second applicants, and had sufficiently explained the evidence on the basis of which it had made its assessment. The court also found that the first applicant did not share a common household with the second applicant and did not exercise parental rights over the third applicant, who at the material time was 25 years old and independent. He still had ties to Türkiye as he was in contact with his siblings, regularly sent goods to Türkiye and returned there to make arrangements concerning his pension.

17. The first applicant was removed from Hungary on 25 March 2021.

18. A constitutional complaint lodged by the first applicant was dismissed on 19 October 2021.

III. WITHDRAWAL OF THE FIRST APPLICANT'S IMMIGRATION PERMIT

19. The NDGAP withdrew the applicant's immigration permit on 15 April 2021, and that decision was upheld on appeal on 4 November 2021.

An application by the applicant for judicial review of the decision was dismissed by the Budapest Surroundings High Court on 11 February 2022.

IV. ACCESS-TO-INFORMATION PROCEEDINGS

20. On 25 January 2021 the first applicant lodged a request with the CPO for authorisation to access classified information (*megismerési engedély*) under section 11 of the Classified Information Act, seeking access to the CPO's recommendation. The request was rejected on 9 February 2021 on the grounds of the public interest in the effective functioning of the CPO.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

21. For the relevant domestic law and practice, see *Trapitsyna and Isaeva v. Hungary* (no. 5488/22, §§ 25-32, 19 September 2024). Furthermore, under section 10(1) of the Classified Information Act, classified information can only be accessed with the permission of the National Security Authority when it is necessary for the fulfilment of a public service.

22. For the relevant European Union law material, see *Trapitsyna and Isaeva* (ibid., §§ 33-36).

23. In its judgment in *Országos Idegenrendészeti Főigazgatóság and Others* (judgment of 25 April 2024, in joined cases C-420/22 and C-528/22, EU:C:2024:344), the Court of Justice of the European Union (CJEU) ruled that the EU law must be interpreted as precluding national legislation which provides that, where a decision to withdraw or to refuse a residence permit to a third-country national is based on information the disclosure of which would compromise national security, that third-country national or his or her representative may have access to that information only after obtaining authorisation to that effect, is not even informed of the substance of the grounds on which such decisions are based, and cannot, in any event use the information, if accessed, for the purposes of an administrative procedure or judicial proceedings,

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 7 TO THE CONVENTION

24. The first applicant complained that he had been expelled from Hungary without having been afforded the guarantees of Article 1 of Protocol No. 7 to the Convention, which reads as follows:

“1. An alien lawfully resident in the territory of a State shall not be expelled therefrom except in pursuance of a decision reached in accordance with law and shall be allowed:

- (a) to submit reasons against his expulsion,
 - (b) to have his case reviewed, and
 - (c) to be represented for these purposes before the competent authority or a person or persons designated by that authority.
2. An alien may be expelled before the exercise of his rights under paragraph 1 (a), (b) and (c) of this Article, when such expulsion is necessary in the interests of public order or is grounded on reasons of national security.”

A. Admissibility

25. The Court reiterates that the safeguards provided for by Article 1 of Protocol No. 7 apply only to aliens who are “lawfully resident” in the territory of a State which has ratified this Protocol (see *Georgia v. Russia (I)* [GC], no. 13255/07, § 228, ECHR 2014 (extracts), *Sejdovic and Sulejmanovic v. Italy* (dec.), no. 57575/00, 14 March 2002, and *Muhammad and Muhammad v. Romania* ([GC], no. 80982/12, § 91, 15 October 2020).

26. In the present case, the first applicant arrived in Hungary in 1990 and was granted an immigration permit on 30 June 2000, which was revoked by a final judicial decision on 11 February 2022, following his expulsion. He was thus “lawfully resident” in Hungary when the expulsion proceedings were initiated against him. Consequently, given that he was facing expulsion at a time when he was alien lawfully residing in Hungary, Article 1 of Protocol No. 7 is applicable *ratione materiae* in the present case.

27. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties’ submissions

(a) The applicant

28. The first applicant submitted that he had been “an alien lawfully resident in the territory” of Hungary within the meaning of Article 1 of Protocol No. 7. He argued that the decision to expel him had clearly not complied with the procedural guarantees of that provision.

29. The first applicant argued that the domestic authorities had failed to specify the legal basis for the expulsion decision, namely whether he had constituted a “serious threat”, a “threat”, or a “risk” to Hungary’s national security, thus rendering their decisions arbitrary. As a settled migrant, he could only have been expelled if he constituted a serious threat, pursuant to section 45(2)(a) of the Immigration Act, whereas the domestic courts had relied on section 43(2)(d) of the Immigration Act.

30. Furthermore, the first applicant submitted that neither he nor his lawyer had been informed of the reasons for the expulsion or the classified information underlying the CPO's recommendation and the NDGAP's decision; they had therefore been deprived of the opportunity to present their arguments and challenge the administrative decision.

31. There had been no safeguards in the domestic proceedings to counterbalance such restrictions of the first applicant's procedural rights. First, the Budapest High Court had not reviewed the necessity of the classification. It had not provided either the first applicant or his lawyer with a summary or an extract of the content of the CPO's recommendation.

32. Furthermore, the CPO's recommendations were binding on the NDGAP and the court, excluding, in practice, any proportionality assessment or effective review.

33. Lastly, the proceedings under the Classified Information Act seeking access to the recommendation in question had also been futile and could not have yielded any result since, according to the domestic case-law, no right of access to the CPO's recommendations could be granted under the Classified Information Act.

34. The first applicant further pointed out that the administrative expulsion decision had been issued on the same day as the NDGAP had interviewed the first applicant, and the final court decision had been delivered while his request to access the CPO's recommendation was still pending.

(b) The Government

35. The Government submitted that the guarantees provided for in Article 1 of Protocol No.7 had been ensured in the course of the domestic proceedings. The first applicant had had the opportunity to present his arguments against his expulsion in the court proceedings, he had been present in person at the court hearing, together with his legal representative, and he had had the possibility of lodging an application for review.

36. In any event, the first applicant's expulsion had been necessary in the interests of national security, in accordance with the second paragraph of Article 1 of Protocol No. 7.

2. The Court's assessment

(a) General principles

37. The general principles on the procedural rights of lawfully resident aliens in expulsion proceedings were summarised in *Muhammad and Muhammad*, cited above, §§ 125-57; and more recently in *F.S. v. Croatia*, no. 8857/16, §§ 50-53, 5 December 2023).

38. In particular, the Court found that that Article 1 § 1 of Protocol No. 7 requires in principle that the aliens concerned be informed of the relevant factual elements which have led the competent domestic authorities to

consider that they represent a threat to national security and that they be given access to the content of the documents and the information in the case file on which those authorities relied when deciding on their expulsion (*ibid.*, § 129).

39. Although these rights are not absolute, any limitations thereof must not negate the procedural protection guaranteed by Article 1 of Protocol No. 7 by impairing the very essence of the safeguards enshrined in that provision. Even in the event of limitations, the alien must be offered an effective opportunity to submit reasons against his expulsion and be protected against any arbitrariness. The Court will therefore first ascertain whether the limitations of the alien's procedural rights were found to be duly justified by the competent independent authority in light of the particular circumstances of the case, and secondly examine whether the difficulties resulting from those limitations for the alien concerned were sufficiently compensated for by counterbalancing factors (*ibid.*, § 133). In this connection, the Court has stressed that the less stringent the examination by the national authorities of the need to place limitations on the alien's procedural rights, the stricter the Court's scrutiny of the counterbalancing factors will have to be (*ibid.*, § 145).

40. The Court has set out certain factors capable of counterbalancing the limitations on an alien's procedural rights guaranteed by Article 1 of Protocol No. 7, such as the relevance of the information disclosed to the alien and his or her access to the documents on which the authorities based their decision, information as to the conduct of the proceedings and the domestic mechanisms in place to counterbalance the limitation of his or her rights, whether the alien was represented and whether an independent authority was involved in the proceedings (*ibid.*, §§ 147-56; see also *Hassine v. Romania*, no. 36328/13, § 54, 9 March 2021). The Court has stressed that these factors do not have to be fulfilled cumulatively and that the assessment of the nature and extent of the counterbalancing factors to be implemented may vary depending on the circumstances of a given case (see *Muhammad and Muhammad*, cited above, § 157).

(b) Application of those principles to the present case

41. In the light of the above principles, the Court will examine the procedural safeguards available in Hungary and the manner in which they were applied in the applicant's case. In this context, and as stated above, the applicant was "lawfully resident" when his expulsion on grounds of national security was initiated by the NDGAP on the basis of an undisclosed recommendation of the CPO.

42. As regards the first applicant's right to be informed of the factual elements underlying the expulsion decision, it should be noted that, in accordance with section 10(1) of the Classified Information Act and the case-law of the Hungarian courts (see *Trapitsyna and Isaeva v. Hungary*, no. 5488/22, § 32, 19 September 2024), if the CPO has decided to classify the information contained in its recommendation, the administrative and judicial

decisions declaring that an alien constitutes a risk or threat to national security and expelling him or her on this ground could not disclose that information or the factual reasons relied on by the CPO.

43. Under section 11 of the Classified Information Act, a data subject may file a request with the classifying authority or data controller for authorisation to access classified information about him or her. However, under section 12(1) of the Classified Information Act, such disclosure can be precluded on public-interest grounds.

44. On the basis of a combined application of these legal provisions, the Budapest High Court held in the present case that, similarly to the NDGAP, it was required by law to refrain from providing the first applicant with the information underlying the CPO's recommendation.

45. As regards the first applicant's right to be informed of the content of the documents under the Classified Information Act, the Court notes that the CPO, applying the relevant provisions, found that the first applicant was not entitled to access the information contained in its recommendations as that would have impeded its proper functioning.

46. This entailed a significant limitation of the first applicant's right to be informed of the factual elements and the content of the documents underlying both the recommendation for his expulsion submitted by the CPO and the NDGAP and court decisions to order his removal from Hungary.

47. The Court will now examine whether the limitations of the first applicant's procedural rights were necessary and whether counterbalancing measures were put in place by the national authorities to mitigate those limitations, before assessing the concrete impact of the limitations on the first applicant's situation in the light of the proceedings as a whole (see *Muhammad and Muhammad*, cited above, § 163).

48. In the present case, the Court notes that the Budapest High Court, applying section 10(1) of the Classified Information Act and relying on previous case-law, ruled from the outset that the first applicant could not have access to the CPO file on the ground that the documents were classified. It also held that it was inopportune to hear the CPO in the proceedings, as it could not have testified about the classified information either. Moreover, domestic law did not allow the court to examine of its own motion whether the classification made by the CPO was justified for the protection of the public interest. Nor could the court assess whether, in a particular case, the protection of the public interest necessitated the restriction of an alien's procedural rights and the non-disclosure of the evidence on which that decision was based. Consequently, the public interest underlying the CPO's classification of the information in question could not be reviewed by the court either.

49. In addition, the first applicant was also denied access to the requested information in the proceedings under the Classified Information Act, with the

CPO relying in general terms on the difficulties such disclosure would pose for its operations, without providing further factual explanations.

50. Consequently, in the absence of any examination by the Budapest High Court of the need to restrict the first applicant's procedural rights, the Court must exercise strict scrutiny in order to establish whether the counterbalancing factors put in place were capable of effectively mitigating the limitations of the first applicant's procedural rights in the present case (*ibid.*, § 165).

51. As regards the extent of the information provided to the first applicant concerning the factual elements underlying his expulsion, the Court notes that according to the Budapest High Court's judgment, which confirmed the findings of the NDGAP, the first applicant's conduct constituted a "serious threat" to or a "breach" of national security. The Budapest High Court merely stated briefly that it had reviewed the documents produced by the CPO, from which it was clear that the first applicant's presence in Hungary constituted a serious threat to or breach of national security. The Court takes note of the applicant's argument that the domestic decisions did not specify whether his conduct constituted a "threat" to or a "breach" of national security. In any event, none of the decisions mentioned any specific conduct by the first applicant or any specific allegation against him. They made no reference to the evidential basis for their findings. Nor did they explain whether and how the CPO had been able to demonstrate the existence of the specific facts on which its recommendation to expel the first applicant was based.

52. These considerations lead the Court to conclude that the first applicant was not informed of the allegations against him to enable him effectively to exercise his procedural rights under Article 1 of Protocol No. 7.

53. Turning to the counterbalancing factors available under domestic law at the material time, the Court notes that the first applicant was interviewed by the NDGAP on 20 January 2021, in the presence of his wife. According to the applicants, this was the first time that they had been informed by the authorities that proceedings for the first applicant's expulsion on grounds of national security had been initiated (see paragraph 14 above). The expulsion decision was issued on the same day, leaving the first applicant with no opportunity to present evidence or challenge the CPO's findings in the administrative proceedings.

54. Furthermore, the first applicant submitted a request to the CPO for authorisation to access classified information, which was dismissed on 9 February 2021. The Budapest High Court's decision on his expulsion was handed down on 19 February 2021, at which point he could still have sought judicial review of the CPO decision. The Court has regard to the applicants' argument in this respect that any recourse to a judicial review of the CPO's decision to access classified information became futile once the Budapest High Court had given its final judgment on expulsion.

55. In the Court's view, the speed of the procedure had a negative impact on the exercise of the first applicant's procedural rights rather than mitigating the restrictions on his access to specific information relating to his expulsion.

56. The Court notes next that the first applicant was represented by a lawyer of his own choosing in the court proceedings. However, the Court finds it relevant that the first applicant's legal representative also had no access to the classified information or to the content of the CPO's recommendation. It cannot therefore be said that his representation in the proceedings amounted to an effective safeguard capable of meaningfully counterbalancing the restrictions imposed on the applicant's procedural rights in the present case (compare *Muhammad and Muhammad*, cited above, § 192; *F.S. v. Croatia*, cited above, § 65).

57. The Court also notes that the decision to expel the first applicant was reviewed by the Budapest High Court, which had the requisite independence and the right of access to the confidential documents in question. This could, in principle, have constituted an important safeguard capable of mitigating the effects of the restrictions imposed on his procedural rights.

58. However, since the first applicant was not given any factual elements which led the authorities to conclude that his presence constituted a threat to or breach of national security, the Court considers that he cannot be said to have been able to present his case adequately in the subsequent judicial review proceedings.

59. In any event, it can be seen from the judgment of the Budapest High Court and the relevant domestic case-law (see *Trapitsyna and Isaeva*, cited above, §§ 31-32) that the CPO's recommendation was binding on the NDGAP and the court both as to the necessity of an expulsion order and as to the length of the re-entry ban. The Budapest High Court only briefly stated that it had reviewed the documents produced by the CPO, from which it found it clear that the first applicant's presence in Hungary constituted a serious threat to or a breach of national security. It did not make any reference to the evidential basis for that finding. Nor did it provide an explanation as to whether and how the CPO was able to demonstrate the existence of the specific facts serving as a basis for its recommendation to expel the first applicant. Thus, the CPO's assertion that the first applicant posed a security risk was not subjected to any meaningful judicial scrutiny.

60. Moreover, this interpretation of the relevant provisions left, in practice, no latitude to the court reviewing the expulsion decision and precluded any balancing of the various interests at stake. In this respect, any reference to the first applicant's circumstances was a mere formality and the applicant had no effective opportunity before the court to provide reasons to rebut either the CPO's findings or the necessity of his expulsion.

61. The foregoing considerations are sufficient to enable the Court to conclude that, having regard to the proceedings as a whole and to the margin of appreciation afforded to States in matters of national security, the

restriction of the first applicant's procedural rights in the proceedings relating to his expulsion was not counterbalanced in the domestic proceedings in such a way as to preserve the very essence of those rights and to protect him against arbitrariness. It cannot therefore be said that the first applicant was expelled "in pursuance of a decision reached in accordance with law".

62. There has accordingly been a violation of Article 1 of Protocol No. 7 to the Convention.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

63. The applicants complained that the first applicant's expulsion had been ordered in a decision based on classified information to which he had had no access and that the ensuing separation of the family entailed a violation of their rights under Article 8 of the Convention, which reads as follows:

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, 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."

A. The parties' submissions

64. The applicants maintained that their relationship constituted a genuine "family life" within the meaning of Article 8 of the Convention. The first and second applicants had lived together since 1994, were married and had a child together. Although their place of residence had been registered at different addresses, this was for administrative purposes. In reality, they owned two apartments close to one another and they shared a household at their temporary address, as evidenced by, amongst other things, the fact that they had both been present when the NDGAP had interviewed the first applicant. In any event, the applicants maintained that cohabitation was not the only relevant factor to show a genuine "family life" within the meaning of Article 8.

65. The applicants further explained that their daughter, the third applicant, was a young adult, who lived with her parents and was dependent on them due to her health condition, namely blindness on one eye. Not only did they have strong emotional ties, but the third applicant was also financially reliant on her parents. Moreover, she was the only child of parents who themselves were in deteriorating health, the first applicant submitting that he suffered from a hernia in his waist and neck and was undergoing physiotherapy. Following her father's expulsion, the third applicant also developed certain mental health conditions and worried about him a lot.

66. In addition, at the material time, the first applicant was a “settled migrant”, whose 30-year long stay in Hungary undoubtedly fell under the “private life” scope of Article 8 § 1 of the Convention.

67. The Government did not explicitly comment the applicability of Article 8 to the present case or the existence of “family life” between the applicants. They did, however, note that the domestic courts concluded that the first applicant did not live in the same household with the second applicant, that their cohabitation had broken down, and that he had a 25-year-old daughter, over whom he had no parental authority and whose self-sufficiency was not in doubt.

B. The Court’s assessment

68. As regards the first applicant’s complaint that his private life had been violated in that he had been expelled from Hungary on national security grounds after many years of living there, the Court has already found a breach of his procedural rights in the proceedings relating to his expulsion under Article 1 of Protocol No. 7 to the Convention (see paragraph 62 above). In those circumstances, it does not consider it necessary to give a separate ruling as to whether the same facts resulted in a breach of his rights under Article 8 of the Convention (see *F.S. v. Croatia*, cited above, § 75).

69. As for the second and third applicants’ complaint that the first applicant’s expulsion to Türkiye has interfered with their rights guaranteed under Article 8 of the Convention, in light of its case-law on the matter, the Court considers it most appropriate to examine their complaint under the right to respect for “family life” guaranteed under that provision (see *Üner v. the Netherlands* ([GC], no. 46410/99, § 61, ECHR 2006-XII).

70. In that connection, the Court notes that the general principles concerning the existence of “family life” in the immigration context have recently been summarised in *Kumari v. the Netherlands* ((dec.), no. 44051/20, §§ 34-44, 19 November 2024).

71. In particular, the Court reiterates that the notion of family life for the purpose of Article 8 of the Convention is an autonomous concept (see *Marckx v. Belgium*, 13 June 1979, § 31, Series A no. 31). As a rule, cohabitation is a requirement for a relationship amounting to family life. Exceptionally, other factors may also serve to demonstrate that a relationship has sufficient constancy to create *de facto* “family ties” (see *Katsikeros v. Greece*, no. 2303/19, § 43, 21 July 2022, and the cases cited therein).

72. The Court has also held that there will be no family life between parents and adult children or adult siblings unless they can demonstrate “additional elements of dependence, involving more than the normal emotional ties” (see, among other authorities, *Kwakye-Nti and Dufie v. the Netherlands* (dec.), no. 31519/96, 7 November 2000; *Senchishak v. Finland*, no. 5049/12, § 55, 18 November 2014; and *Emonet and Others*

v. Switzerland, no. 39051/03, § 5, 13 December 2007). Furthermore, the question whether “additional elements of dependency”, other than normal emotional ties, have been shown to exist, requires an individualised review of the relationship at issue, and other relevant circumstances of the case (see *Kumari*, cited above, § 43).

73. In the present case, the Court notes at the outset that, according to the statement given by the first applicant before the domestic authorities (see paragraph 14 above), those authorities unanimously concluded that the first and second applicant’s cohabitation had ceased and that they no longer lived at the same address. Although the applicants subsequently sought to argue otherwise, the Court does not consider it necessary or appropriate to deviate from the conclusions of the domestic courts, since they are better placed to examine the issue before them and to ascertain the facts of the case, as they have the benefit of hearing the parties in person and examining the evidence (compare *Lindstrand Partners Advokatbyrå AB v. Sweden*, no. 18700/09, § 85, 20 December 2016 ; *Kalucza v. Hungary*, no. 57693/10, § 62, 24 April 2012). Moreover, the Court does not consider that the first and second applicants have put forward any exceptional circumstances which would lead the Court to conclude that, even without cohabitation, their relationship in the particular circumstances amounted to “family life” within the autonomous meaning of Article 8 of the Convention (contrast *Vallianatos and Others v. Greece* [GC], nos. 29381/09 and 32684/09, § 73, ECHR 2013 (extracts) ; *Kroon and Others v. the Netherlands*, 27 October 1994, § 30, Series A no. 297-C).

74. As regards the existence of a “family life” between the first and third applicants, the Court notes that the third applicant was a 25-year-old adult who continued to live with at least one of her parents. Although it transpires from the medical documents put forward before the domestic authorities that the third applicant suffered from problems with her eyesight, it has not been demonstrated that her condition was sufficiently serious for her to require constant care and assistance from the first applicant in order to cope with her everyday life (compare *A.W. Khan v. the United Kingdom*, no. 47486/06, 12 January 2010; *Konstatinov v. the Netherlands*, no. 16351/03, 26 April 2007). As for the alleged financial dependence of the third applicant, the Court has found that financial support could be provided from a distance (see, for instance, *Berisha v. Switzerland*, no. 948/12, § 60, 30 July 2013, and *Senchishak*, cited above, § 57) and, in any event, such dependency on its own has never been considered sufficient to constitute additional ties of dependency (see *Kumari*, cited above, §§ 40-41). Based on the foregoing specific circumstances of the case, the Court concludes that “additional elements of dependency, involving more than the normal emotional ties” between the first and the third applicant, have not been shown to exist.

75. In view of this, the Court finds that the applicants’ relationship did not constitute “family life” within the meaning of Article 8 of the Convention.

76. Accordingly, the second and third applicant's complaint under Article 8 of the Convention must be rejected as being incompatible *ratione materiae* with the provisions of the Convention, in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

77. The applicants complained that the expulsion proceedings and the decision to expel the first applicant on national security grounds had lacked the minimum procedural requirements in breach of Article 13 of the Convention.

78. Having regard to the facts of the case, the submissions of the parties and its above findings, the Court considers that it has examined the main legal questions raised in the present application and that there is no need to give a separate ruling on the admissibility and merits of the remaining complaint (see *F.S. v. Croatia*, cited above, § 75).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

79. 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

80. The applicants claimed 5,106 euros (EUR) jointly in respect of pecuniary damage they had allegedly sustained. They stated that that amount corresponded to the first applicant's living costs in Türkiye and to the travel costs of the second and third applicants when visiting him there. They also sought EUR 15,000 each in respect of alleged non-pecuniary damage.

81. The Government contested those claims.

82. The Court observes that the only basis on which just satisfaction can be awarded in the present case lies in the fact that the first applicant did not enjoy sufficient procedural safeguards in the proceedings leading to his removal from Hungary. The Court cannot speculate as to any other outcome of the proceedings. Consequently, the claim pertaining to pecuniary damage must be rejected.

83. However, the Court considers that the first applicant undoubtedly sustained non-pecuniary damage and that the finding of a violation cannot by itself constitute redress. In view of the nature of the violation, and ruling on an equitable basis, the Court awards him EUR 6,500, plus any tax that may be chargeable.

B. Costs and expenses

84. The applicants also claimed 280,000 Hungarian forints (HUF) (approximately EUR 700) jointly, for the costs and expenses incurred before the domestic courts. This amount corresponded to court fees of HUF 30,000 (approximately EUR 75) and legal fees of HUF 250,000 (approximately EUR 630). The applicants also claimed jointly EUR 7,500 plus value-added tax for the costs and expenses incurred before the Court. That sum corresponded to fifty hours of legal work billable by their lawyer at an hourly rate of EUR 150.

85. The Government contested these claims.

86. 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 (see, among many other authorities, *L.B. v. Hungary* [GC], no. 36345/16, § 149, 9 March 2023).

87. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it appropriate to award the first applicant the sum of EUR 8,200 in respect of costs and expenses under all heads, plus any tax that may be chargeable to the first applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the first applicant's complaint concerning Article 1 of Protocol No. 7 to the Convention admissible and the second and third applicant's complaint concerning Article 8 of the Convention inadmissible;
2. *Holds* that there has been a violation of Article 1 of Protocol No. 7 to the Convention in respect of the first applicant;
3. *Holds* that there is no need to examine the admissibility and merits of the first applicant's complaints under Articles 8 and 13 of the Convention;
4. *Holds*
 - (a) that the respondent State is to pay to the first applicant, 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 6,500 (six thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 8,200 (eight thousand two hundred euros), plus any tax that may be chargeable to the first applicant, in respect of costs and expenses;

(b) 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;

5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 6 May 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı
Registrar

Arnfinn Bårdsen
President