

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

SECOND SECTION

CASE OF RAINBOW MISSION FOUNDATION AND OTHERS v. HUNGARY

(Applications nos. 32272/21 and 4 others – see appended list)

JUDGMENT

Art 11 • Freedom of peaceful assembly • Disproportionate prohibition of small-scale demonstrations planned by the applicant association and the first applicant during the second wave of the COVID 19 pandemic on the basis of a general ban on public gatherings • Interference "prescribed by law" and pursued legitimate aims of protecting health and rights and freedoms of others • Blanket ban in place for a significant length of time • Required balancing exercise of the competing interests at stake not carried out either by the lawmaker or the domestic courts • Wide margin of appreciation overstepped • Interference not shown to be "necessary in a democratic society"
Art 11 (interpreted in the light of Art 10) • Freedom of peaceful assembly • Freedom of expression • Prosecution and sanctioning of the three remaining applicants for administrative offences (lack of prior notification and/or sounding car horns) regarding their participation in demonstrations during the early stages of the COVID-19 pandemic despite a general ban on public gatherings • Interferences "prescribed by law" and pursued legitimate aims of protecting health, public safety and rights and freedoms of others • Blanket ban in place for a relatively short period • Police did not fail to show an adequate degree of tolerance with regard to the gatherings • Decisions based on an acceptable assessment of the facts and on relevant and sufficient reasons • Sanctions imposed (fines or a warning) not disproportionate • Fair balance struck between competing interests at stake • Wide margin of appreciation not overstepped • Interferences "necessary in a democratic society"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

7 July 2026

FINAL

07/10/2026

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



In the case of Rainbow Mission Foundation and Others v. Hungary,

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

Arnfinn Bårdsen*, President*,
Jovan Ilievski,
Péter Paczolay,
Oddný Mjöll Arnardóttir,
Stéphane Pisani,
Juha Lavapuro,
Hugh Mercer*, judges*,
and Andrea Tamietti, *Section Registrar,*

Having regard to:

the applications (nos. 32272/21, 50723/21, 28709/22, 28707/22 and 30238/22) 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 Hungarian non-governmental organisation, Rainbow Mission Foundation (*Szivárvány Misszió Alapítvány* – "the applicant association"), and four Hungarian nationals, Mr Sándor Jámbor ("the first applicant"), Mr Ákos Ányos Hadházy ("the second applicant"), Ms Bernadett Szél ("the third applicant") and Mr Gergely István Gazda ("the fourth applicant"), on the various dates indicated in the appended table;

the decision to give notice to the Hungarian Government ("the Government") of the complaints concerning Articles 10 and 11 of the Convention and to declare the remainder of the applications inadmissible;

the parties' observations;

Having deliberated in private on 28 April and 16 June 2026,

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

INTRODUCTION

1. The applications concern the applicants' complaints under Articles 10 and 11 of the Convention, alleging that the domestic authorities took unnecessary and disproportionate measures against them during a prohibition on public gatherings imposed by the Government in 2020 and 2021 because of the COVID-19 pandemic. The applicant association and the first applicant complained about the authorities' decision to ban the demonstrations organised by them in November 2020 and March 2021, respectively. The second, third and fourth applicants complained about the administrative-offence proceedings conducted against them in connection with their participation in a series of protests between 20 April and 18 May 2020.

THE FACTS

2. The applicants' details and those of their representatives, the dates on which they lodged their applications and the application numbers are set out in the appended table.

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.

I. BACKGROUND INFORMATION

5. The global context pertaining to the spread of the coronavirus disease 2019 ("COVID-19") and the response to its spread in 2020 have been summarised in the case of *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* ([GC], no. 21881/20, §§ 11-18, 27 November 2023).

6. The first COVID-19 infection in Hungary was registered on 4 March 2020.

7. On 11 March 2020 the World Health Organisation (WHO) declared COVID-19 a pandemic.

8. On 11 March 2020, by Government Decree no. 40/2020 (III. 11.), the Government introduced a special legal order and declared a "state of danger" (see paragraph 54 below).

9. On 16 March 2020 the Government adopted Government Decree no. 46/2020 (III. 16.) setting out the specific measures to be put in place to prevent and fight the spread of the disease (see paragraph 55 below). Section 4 of the decree introduced a prohibition on participating in public gatherings and ordered the closure of many public and commercial places, including shops, libraries, museums, and cinemas. The decree, and with it the prohibition of organising public gatherings, was in effect until 17 June 2020 when the Government lifted the state of danger.

10. On 3 November 2020, faced with a rapid increase in the number of confirmed cases and hospitalisations, the Government adopted Decree no. 478/2020 (XI.3.), declaring a state of danger for the second time, with effect from 4 November 2020 (see paragraph 60 below).

11. On 10 November 2020 the Government adopted Decree no. 484/2020. (XI. 10.) on the second phase of protective measures to be applied during the state of danger (see paragraph 61 below). The measures introduced a curfew from 8 p.m. to 5 a.m., and a prohibition on all events, except for religious ceremonies and required the closure of leisure facilities such as fitness centres, indoor swimming pools, museums, libraries, cinemas, zoos and skating rinks. All public gatherings were prohibited and this ban was successively extended on several occasions until 22 May 2021.

II. FACTS RELATING TO THE APPLICANT ASSOCIATION

12. The applicant association is a non-governmental organisation promoting equality for LGBTQI persons.

13. On 5 December 2020 the applicant association's representative notified the police, acting as the authority for public gatherings, that on 10 December 2020 it was planning to hold a demonstration near the Parliament building to protest against proposed legislative amendments adversely affecting the rights of LGBTQI persons while those amendments were being debated in Parliament.

14. A maximum of 30 participants (a closed circle of the organisation's members) were to sit in cars in a closed area next to the Parliament building, wearing masks and parking at a safe distance from each other. The participants intended to express their disagreement with the legislative amendments by displaying banners and sounding car horns.

15. On 6 December 2020 the police summoned the applicant association's representative for a personal consultation. According to the minutes of the meeting, the police informed the applicant association's representative that under section 5(1) of Government Decree no. 484/2020 (XI. 10.) (see paragraph 61 below) it was prohibited to organise or hold an event or public gathering, and that under section 5(2) of the same decree it was prohibited to be present at the location of a public gathering. The police also informed the applicant association's representative that because of the mandatory provisions of the special legal order, the notification would necessarily result in the gathering being prohibited. The representative of the applicant association stated that it intended to hold the demonstration on the date specified in the notification and would not organise or hold the event if the authority prohibited it.

16. On 7 December 2020 the police prohibited the demonstration on the grounds of the ban in force. According to the reasoning of the decision, the police could not take any lawful decision other than to prohibit the notified gathering. Government Decree no. 484/2020 (XI. 10.) – in force at the time of the planned gathering – prohibited all events and gatherings without any further conditions or detailed rules. Consequently, the police did not need to examine how the planned gathering related to the health risks of the COVID-19 pandemic. They could merely examine whether the planned date of the announced gathering fell within the period covered by the ban and, if so, prohibit the event as required. The police emphasised that a failure to comply with the rules of conduct prescribed during a state of danger could result in a violation of public safety, public order, or the rights and freedoms of others.

17. On 15 December 2020 the *Kúria* rejected the applicant association's request to set aside the administrative decision and to refer the case to the Constitutional Court to review the prohibition's constitutionality. It found

that the decision, which was based on the legal provisions prohibiting public gatherings during the state of danger in place (sections 4 and 5(1) and (2) of Government Decree no. 484/2020 (XI. 10.)), was lawful. It referred to Article 53 § 2 of the Fundamental Law (see paragraph 53 below), under which during a state of danger the Government were authorised to adopt decrees by which they could, as provided for by a cardinal Act, suspend the application of certain Acts, derogate from the provisions of Acts and take other extraordinary measures. Section 51/A of Act no. CXXVIII of 2011 on Disaster Management and Amending Certain Related Acts (hereinafter "the Disaster Management Act", see paragraph 65 below) provided further authorisation to the Government, during a state of danger and to tackle the consequences of the pandemic, to suspend the application of certain Acts, derogate from the provisions of Acts and take other extraordinary measures by way of decrees. As the adoption of Government Decree no. 484/2020 (XI. 10.) (see paragraph 61 below) was based on the authorisation provided by section 51/A of the Disaster Management Act, the *Kúria* had no doubts regarding the decree's constitutionality and dismissed the applicant association's request to refer the case to the Constitutional Court.

18. The *Kúria* also found that the general prohibition of all public gatherings precluded the police from considering the particular circumstances of the case. The *Kúria* even declared the following as a matter of principle:

> "As regards public gatherings, a decision to ban a gathering based on a legal provision that strictly prohibits the holding of gatherings during a state of danger is lawful. A general prohibition precludes the authority for public gatherings from considering the specific circumstances of an individual case."

19. On 22 June 2021 the Constitutional Court rejected the applicant association's constitutional complaint. It refused to declare unconstitutional and annul sections 4(1), 5(1) and 5(2) of Government Decree no. 484/2020 (XI. 10.) (decision no. 23/2021. (VII. 13.) AB).

20. The Constitutional Court held that as the exercise of freedom of assembly posed a high risk to the spread of COVID-19, a temporary prohibition on it could be considered a necessary restriction. In view of the particular time of the planned demonstration, that is, at the beginning of a new wave of the pandemic, it did not find the general prohibition of public gatherings to be unconstitutional.

21. The Constitutional Court emphasised that in times of a state of danger, considering the health, social and economic risks of the pandemic, the Government had the authority and responsibility to introduce necessary extraordinary measures under Article 54 § 1 of the Fundamental Law (see paragraph 53 below). These extraordinary measures could even temporarily suspend the exercise of a fundamental right. However, the Government's power in this regard was not unlimited. The Constitutional Court could not dispute the necessity of such measures, but it could review whether the restriction or suspension of the fundamental right in question remained within

the framework of the Fundamental Law that is whether the restriction was justified by the need to combat the pandemic. If the appropriateness of the measure was not justified, the suspension or restriction of the fundamental right did not meet the requirements derivable from Article 54 § 1 and Article I § 3 of the Fundamental Law.

22. Thus, in the applicant's case, the task of the Constitutional Court was not to decide whether the planned gathering – during which participants would have parked next to each other in their cars to express their political opinions – had posed any epidemiological risk, but whether, under the given circumstances, the provision generally prohibiting gatherings remained within the framework of the Fundamental Law. It acknowledged that the prohibition of public gatherings pursued the legitimate aim of combating the coronavirus pandemic, including reducing its health, social and economic impact and mitigating its damage. With regard to the measure's necessity, the Constitutional Court had to determine whether the contested regulation was suitable for averting or mitigating the circumstances that gave rise to the introduction of the special legal order. The Constitutional Court took into account that from an epidemiological point of view public gatherings posed a particular risk and that the actual number of participants could only be estimated in advance, thus even a small gathering could turn into a mass event, multiplying the risk. All fundamental rights did not have to be fully subordinated to the protection against the epidemic, but nevertheless, in the present case, the temporary prohibition of the exercise of one of the most risky fundamental rights in terms of the spread of the epidemic could be considered necessary. Having regard to the fact that the applicant association sought to organise a demonstration on 10 December 2020, the Constitutional Court could not establish that, during the period in question – at the height of a new wave of the pandemic – the rule generally prohibiting gatherings was unconstitutional. In light of this, it dismissed the complaint.

23. At the same time, the Constitutional Court held the following:

> "... the constitutional requirement arising from the combined interpretation of Article VIII § 1 and Article 54 § 1 of the Fundamental Law is that the lawmaker could suspend the exercise of the right of assembly even in the event of a state of danger only for as long as is strictly necessary and only to the extent that is strictly necessary, and that it must review at reasonable intervals whether the circumstances giving rise to the restriction continue to justify the suspension of the fundamental right or its restriction beyond the scope of Article I § 3 of the Fundamental Law."

III. FACTS RELATING TO THE FIRST APPLICANT

24. The first applicant is a retired police officer living in the city of Gyula.

25. On 21 March 2021 he informed the police of his intention to hold a demonstration in Gyula on 26 March 2021, in which ten people were expected to participate in separate cars, wearing masks and avoiding any physical contact with others. The participants wished to express their criticism of the

Government's handling of the pandemic by driving through the city, sounding their horns and using loudspeakers.

26. The police summoned the first applicant for a personal consultation on 22 March 2021. During the consultation, the applicant was informed that under section 5(1) of Government Decree no. 484/2020 (XI. 10.) it was prohibited to organise or hold an event or a public gathering and, under subsection (2) of the same section, to be present at the place of a gathering (see paragraph 61 below). The police also informed the first applicant that because of the mandatory provisions of the special legal order, they would be required to prohibit the demonstration. In reply, the first applicant stated that he intended to hold the demonstration on the date indicated in the notification and would not organise or hold the gathering if the authority prohibited it.

27. On 23 March 2021 the police prohibited the demonstration on the grounds of the ban in force, giving the same reasons as in the case of the applicant association (see paragraph 16 above).

28. On 30 March 2021 the *Kúria* rejected the first applicant's request to set aside the administrative decision and to refer the case to the Constitutional Court to review the constitutionality of the prohibition. It found that the decision, which was based on the legal provision prohibiting public gatherings during the state of danger in place, was lawful and that that general prohibition precluded the police from considering the particular circumstances of the individual case.

29. On 12 July 2021 the Constitutional Court dismissed the first applicant's complaint to declare unconstitutional and annul sections 4(1), 5(1) and 5(2) of Government Decree no. 484/2020 (XI. 10.) (decision no. 3359/2021. (VII. 28.) AB). The Constitutional Court referred to its decision given in the applicant association's case (no. 23/2021. (VII. 13.) AB - see paragraphs 19-23 above) in which it had not found the general prohibition of public gatherings to be unconstitutional at the particular time, that is, at the beginning of a new wave of the pandemic.

IV. FACTS RELATING TO THE SECOND APPLICANT

30. The second applicant is an opposition party politician. Together with the third applicant (see paragraphs 40-45 below) and an opposition political party, Momentum Mozgalom, he announced on Facebook a series of public gatherings to be held at the roundabout on Clark Ádám Square, in central Budapest, on a weekly basis between 20 April and 18 May 2020.

31. The announcements stated that the gatherings would be contact-free in that the participants would drive around the roundabout in their cars using their car horns to voice their dissatisfaction with the Government's handling of the pandemic and to demonstrate solidarity with healthcare workers, while also demanding widespread testing for COVID-19, support for small businesses and transparent information.

32. No one informed the police of the events, as required under Act no. LV of 2018 on the Right of Assembly ("the Right of Assembly Act", see paragraph 68 below).

33. On 11 August 2020 the second applicant was fined 80,000 Hungarian forints (HUF, approximately 230 euros (EUR) at the relevant time) by the Budapest I District Police Department for abuse of the right of assembly as he, as the organiser of the event of 20 April 2020, had failed to notify the police at least 48 hours prior to the demonstration. The police department considered him to be an organiser of the event because he had shared the event on his Facebook page and called on people to participate.

34. On 25 August 2020 he was fined another HUF 100,000 (approximately EUR 290) for the abuse of the right of assembly in connection with the event of 27 April 2020. According to the police report, between 4.40 p.m. and 4.50 p.m., the second and third applicants held a press conference near Clark Ádám Square together with other politicians, which was attended by 10 to 20 people. Subsequently, from 5 p.m. to 5.30 p.m., some of the people present at the scene drove into the roundabout and expressed their disapproval by honking their horns. Those who expressed their opinions on foot or by bicycle were standing on the sidewalk surrounding the roundabout. Over time, more people joined the protesters, and the number of participants rose to about 30–40.

35. On 4 March 2021 the above administrative decisions were upheld by the Pest Central District Court concerning the second applicant's abuse of the right of assembly, but the District Court reduced the fines to HUF 40,000 (approximately EUR 110) and HUF 50,000 (EUR 140).

36. On 4 September 2020 the Budapest I District Police Department found that the second applicant had infringed section 4(1) of Government Decree no. 46/2020 (III. 16. – see paragraph 55 below), had committed a minor violation of traffic rules by sounding his car horn and had abused the right of assembly in relation to the gatherings held on 4, 11 and 18 May 2020 as he had not notified the police of those events beforehand. He was fined another HUF 250,000 (approximately EUR 694). On all three occasions, he entered the roundabout a few minutes after 5 p.m., where, after driving around it a few times while using his car horn, the police stopped him.

37. On 16 February 2021 the District Court overturned the administrative decision in respect of the infringement of section 4(1) of Government Decree no. 46/2020 (III. 16.) and the minor violation of traffic rules. However, it found that the second applicant had abused the right of assembly on three counts as the organiser of the events and reduced the fine to HUF 100,000 (approximately EUR 280). In the District Court's view, no evidence was found that the applicant had sounded his horn, which would constitute a minor traffic violation. With regard to the infringement of section 4(1) of Government Decree no. 46/2020, it concluded that his actions had not constituted a minor offence under the legislation in force at the time of the

commission of the act and therefore terminated the proceedings in that connection.

38. The second applicant lodged a constitutional complaint against the decisions of the Pest Central District Court. The complaint was dismissed on 25 January 2022 (decision no. 3049/2022. (II. 4.) AB).

39. The Constitutional Court observed that during the state of danger, the Government had imposed a general prohibition on gatherings in view of the risk of the pandemic. It referred to its decision given in the applicant association's case (no. 23/2021. (VII. 13.) AB - see paragraphs 19-23 above), according to which the danger of an epidemic could justify the minimisation of social interaction and therefore a temporary general restriction on the right of assembly might also be acceptable, but the legislature and law-enforcement authorities still had to allow for the expression of public opinion. In the Constitutional Court's view, the difference between freedom of expression and freedom of assembly lied not primarily in the nature of the conduct protected by these rights (since in both cases the Fundamental Law protected the expression of opinions on public affairs), but rather in the extent of the positive obligations of the domestic authorities in connection with the exercise of these rights. In the case of conduct protected by freedom of assembly, participants were present at the same place and time; which might necessitate, on the one hand, ensuring the peaceful conduct of the assembly, and, on the other hand, requiring the authorities to assess whether the assembly posed a risk to public safety, public order, or—as in the present case – public health due to an epidemic. In the second applicant's case, the Constitutional Court examined whether his freedom of expression or freedom of assembly had been violated by the domestic court's interpretation of the law, which regarded the applicant's conduct as organising a public gathering. It took into account that the District Court had found that the second applicant, the organiser, had announced the demonstration as a public event for the purpose of expressing an opinion on a public matter. The event had had a purpose, agenda, location, and start and end time, and the second applicant had coordinated the events at their location and had held a press conference, thus fulfilling the role of an organiser. The Constitutional Court concluded that in his case it could not be established that the District Court had violated his rights to freedom of expression or freedom of assembly by its assessment of the nature of the gathering and its organisation.

V. FACTS RELATING TO THE THIRD APPLICANT

40. The third applicant, an opposition politician, took part in an event called "Honk so Orbán can hear it!" on 27 April 2020. She held a press conference near Clark Ádám Square between 4.40 p.m. and 4.50 p.m. At 5 p.m. she drove around the roundabout on Clark Ádám Square while sounding her car horn (see paragraph 34 above). She was also present at the

subsequent rallies on 4, 11 and 18 May 2020 during which she entered the roundabout some time between 5 p.m. and 5.30 p.m., using her vehicle's horn (see paragraphs 30 and 36 above). According to media reports, participation in these events fluctuated between approximately 20 and 50 people from week to week.

41. On 9 October 2020 the Budapest I District Police Department found that the third applicant had committed a minor violation of traffic rules by sounding her car horn, had infringed section 4(1) of Government Decree no. 46/2020 (III. 16. – see paragraph 55 below) and had committed the minor offence of abuse of the right of assembly in relation to the above-mentioned four gatherings, as she had not notified the police beforehand. The police fined the third applicant HUF 250,000 (approximately EUR 700).

42. On 3 March 2021 the Pest Central District Court terminated the proceedings in respect of the infringement of section 4(1) of Government Decree no. 46/2020 (III. 16.). It found that being present at the location of a gathering had not constituted a minor offence under the legislation in force at the time of the commission of the act. At the same time, it found that the third applicant had committed a minor violation of traffic rules and the minor offence of abuse of the right of assembly on four counts as the organiser of the event, and reduced the fine to HUF 100,000 (approximately EUR 280). Concerning the minor violation of traffic rules, the District Court rejected the third applicant's argument that she had used the car horn to express an opinion. It considered it essential that outside observers be able to clearly understand the purpose of drivers' sound signals. However, during the protest in question, persons other than the participants could not clearly understand the reason for the use of the horn. The District Court emphasised that the audible warning signal of a vehicle, when used outside of accident situations, had been misleading, as it could not fulfil its warning function in the event of an emergency and might even cause accidents. It held that the use of the horn had been unlawful as it had contravened the restrictive provision of the traffic rules.

43. The third applicant lodged a constitutional complaint against the decision of the Pest Central District Court. It was dismissed on 25 January 2022 (decision no. 3050/2022. (II. 4.) AB).

44. The Constitutional Court reached the same conclusion as in the case of the second applicant that the District Court's interpretation of the law, according to which the conduct of the third applicant constituted the organisation of a gathering, had not violated her freedom of expression or freedom of assembly (see paragraph 39 above).

45. The Constitutional Court also assessed whether the judicial decision, which considered her expression of opinion in the form of sounding her horn as unlawful conduct, had been compatible with the fundamental right of freedom of expression. It accepted that sounding a horn, as a possible form of non-verbal expression that conveyed a message recognisable to everyone,

might, in other circumstances and in a different legal context, fall within the scope of protection under Article IX § 1 of the Fundamental Law (freedom of expression – see paragraph 53 below). However, in the third applicant's case, the Constitutional Court found that her conduct had not constituted an exercise of her right to freedom of expression, given that she had participated in an unannounced and unlawful gathering, abusing the right of assembly.

VI. FACTS RELATING TO THE FOURTH APPLICANT

46. The fourth applicant participated in the gathering advertised by the second and third applicants on 11 May 2020 (see paragraphs 30, 36 and 40 above). At 5.05 p.m. he drove up to the roundabout on Clark Ádám Square and did several laps of it while sounding the horn of his vehicle and displaying a banner with the message: "Solidarity, humane crisis management".

47. On 19 August 2020 the Budapest I District Police Department found that the fourth applicant had committed a minor violation of traffic rules, because he had sounded his horn even though there had been no risk of an accident, and had infringed the rules of conduct during a state of danger under section 4(1) of Government Decree no. 46/2020 (III. 16. – see paragraph 55 below). It fined him HUF 150,000 (approximately EUR 410).

48. The fourth applicant raised an objection against the administrative authority's decision.

49. On 29 January 2021 the Pest Central District Court terminated the proceedings for the infringement of the rules of conduct during a state of danger, because at the time of the adjudication of the case the act in question was no longer a minor offence (see paragraph 57 below).

50. Concerning the minor violation of traffic rules, the District Court issued a warning to the fourth applicant instead of a fine.

51. The District Court acknowledged that opinions could be expressed not solely through verbal means at a demonstration but considered it essential that the motivation of drivers sounding their horns be understandable to outside observers. It concluded that, under the circumstances, the sound of horns had been incomprehensible to outsiders and, in the absence of banners or speeches, only those participating in the demonstration had known the reason for the gathering. It emphasised that the audible warning signal of a vehicle in traffic was misleading in situations other than accidents, as it could not fulfil its warning function in the event of an accident and might even cause one. The District Court held that the use of the horn in question had been unlawful as it had been contrary to the restrictive provision of the traffic rules. Furthermore, under section 4(1) of Government Decree no. 46/2020 (III.16.) it was forbidden to be present at the location of any gathering, thus the applicant could not have been legally present at the gathering held on Clark Ádám Square.

52. The ensuing constitutional complaint was dismissed on 25 January 2022 (decision no. 3048/2022. (II. 4.) AB). The Constitutional Court held that the fourth applicant's conduct had not constituted "expression". As he had joined a gathering at a time when it had been prohibited to do so and that gathering had been held in violation of the rules of the Right of Assembly Act (see paragraph 68 below), sounding his horn did not enjoy the protection of freedom of expression under Article IX § 1 of the Fundamental Law (see paragraph53 below), and did not constitute a non-verbal expression of opinion that could have been protected by the constitutional right to freedom of expression.

RELEVANT LEGAL FRAMEWORK

I. DOMESTIC LAW

A. The Fundamental Law

53. The Fundamental Law contains the following relevant provisions:

Article I

"(3) The rules for fundamental rights and obligations shall be laid down in an Act. A fundamental right may only be restricted to allow the effective use of another fundamental right or to protect a constitutional value, to the extent absolutely necessary, proportionate to the objective pursued and with full respect for the essential content of that fundamental right.

..."

Article VIII

"(1) Everyone shall have the right to peaceful assembly.

..."

Article IX

"(1) Everyone shall have the right to freedom of expression.

..."

State of danger
Article 53

"(1) In the event of a natural disaster or industrial accident endangering life and property, or in order to mitigate its consequences, the Government shall declare a state of danger, and may introduce extraordinary measures laid down in a cardinal Act.

(2) During a state of danger, the Government may adopt decrees by means of which it may, as provided for by a cardinal Act, suspend the application of certain Acts, derogate from the provisions of Acts and take other extraordinary measures.

..."

Common rules for the special legal order
Article 54

"(1) Under a special legal order, the exercise of fundamental rights – with the exception of the fundamental rights provided for in Articles II and III, and Article XXVIII §§ 2-6 – may be suspended or restricted beyond the extent specified in Article I § 3.

(2) Under a special legal order, the application of the Fundamental Law shall not be suspended, and the operation of the Constitutional Court shall not be restricted.

(3) A special legal order shall be terminated by the body entitled to introduce the special legal order if the conditions for its declaration no longer exist.

(4) The detailed rules to be applied under a special legal order shall be laid down in a cardinal Act."

B. Government decrees

54. On 11 March 2020, by Decree no. 40/2020 (III. 11.) on the declaration of a state of danger, the Government declared a state of danger throughout Hungary in order to avert the consequences of the coronavirus pandemic and to protect the health and lives of Hungarian citizens. The Government undertook to continuously review the necessity of the state of danger (section 3(2) of the decree).

55. On 16 March 2020 the Government, by Decree no. 46/2020 (III.16.) on the measures to be taken during the state of danger, introduced several measures in response to the spread of COVID-19 with effect from 17 March 2020. The decree remained in effect until 17 June 2020. It was forbidden to frequent catering facilities between 3 p.m. and 6 a.m. except for takeaways. The same time restriction applied to shops, save for the ones selling food, drugstore and household cleaning products, as well as pharmacies, petrol stations and tobacco shops. Those over the age of 70 were requested not to leave their place of residence or place of stay. Music and dance events were banned. Cultural and entertainment facilities were closed to the public. Sporting events could be held without spectators. Section 4(1) of the decree prohibited being present at the location of any event regardless of the number of participants and regardless of the venue of the event, except for religious ceremonies, civil marriages and funerals. Being present at the location of a gathering was also prohibited.

56. On 27 March 2020 the Government, by Decree no. 71/2020. (III. 27.) on restricting movement, imposed a curfew, with effect from 28 March 2020. People were required to minimise social contact, except with members of their household, and keep at least 1.5 metres distance from others. Leaving home was only allowed for specific justified reasons, such as work, healthcare, childcare, essential shopping, individual exercise or walking pets, attending small family weddings or funerals, religious activities, certain personal services (e.g., hairdressing), using transport or essential services,

and handling necessary administrative or financial matters. The decree also provided designated shopping hours between 9 a.m. and noon in grocery stores, markets and pharmacies for persons over the age of 65.

57. At the request of the Parliament, the Government terminated the state of danger declared on 11 March 2020 (see paragraphs 8 and 54 above), with effect from 18 June 2020. In view of that, Government Decree no. 40/2020. (III. 11.) ceased to be in force, as well as Decrees no. 46/2020 (III.16.) and no. 71/2020. (III. 27. – see paragraphs 54-56 above).

58. On the same day the Government declared a state of health crisis and introduced a state of epidemiological preparedness (*járványügyi készültségi időszak*) across the entire territory of Hungary by Decree no. 283/2020 (VI. 17.) on introducing a state of epidemiological preparedness.

59. In the ensuing period of epidemiological preparedness several measures remained in force. When using public transport and shopping in stores, it was still mandatory to wear a mask, but the shopping time slot reserved for the elderly (see paragraph 56 *in fine* above) was abolished. All sorts of music and dance events could be held without restrictions if the number of participants, including staff, did not exceed 500.

60. With effect from 4 November 2020, the Government again declared a state of danger by Decree no. 478/2020. (XI. 3.), with similar provisions to those of Government Decree no. 40/2020 (III. 11. – see paragraph 54 above).

61. By Decree No. 484/2020. (XI. 10.) on the second phase of protective measures applicable during the state of danger, the Government adopted numerous protection measures to combat the spread of the virus with effect from 11 November 2020. Restrictions were introduced, including an 8 p.m.–5 a.m. curfew, a ban on public events and gatherings, and the closure of leisure facilities such as gyms, museums, cinemas, and pools. Private gatherings were limited to 10 people, funerals to 50 attendees, and weddings were allowed only as ceremonies without receptions. Primary schools remained open, while secondary schools and universities switched to online learning. Restaurants could provide takeaway only, and hotels were restricted to non-tourist guests traveling for business, economic, or educational reasons. Most shops could operate until 7 p.m., and special shopping hours for elderly citizens were reintroduced. These measures were gradually lifted in stages by summer 2021.

62. Until 30 April 2021, the decree provided for the following rules of conduct in public places:

2. Curfew and rules of conduct in public spaces
Section 4

"(1) Gathering or assembling in a public space or a space open to the public is prohibited.

..."

3. Protection measures applicable to events
Section 5

"(1) With the exceptions specified in section 6, it is prohibited to organise or hold an event or a gathering.

(2) With the exceptions specified in section 6, it is prohibited to be present at the location of an event, regardless of the venue of the event. It is prohibited to be present at the location of a gathering.

..."

Section 6

"(1) It is prohibited to attend a sports event as a spectator.

(2) A sports event may be held behind closed doors, without spectators.

(3) Except for a marriage ceremony or a funeral, a family event or a private event may be held if the number of persons present at the same time does not exceed ten.

(4) The number of persons present at a funeral shall not exceed 50.

(5) At a marriage ceremony only

(a) the celebrant or the registrar;

(b) the individuals getting married;

(c) the witnesses of the individuals getting married;

(d) the parents, grandparents of the individuals getting married;

(e) the brothers and sisters of the individuals getting married; and

(f) the children of the individuals getting married may be present."

63. Section 4(1) of the decree was in force until 22 May 2021. From 23 May 2021, public gatherings were allowed under certain conditions. If fewer than 500 people attended, individuals not protected against coronavirus could participate. If 500 or more people attended, only those protected against coronavirus and people under 18 under their supervision were allowed. Spontaneous gatherings remained prohibited. From 14 June 2021, these restrictions were also lifted.

64. The application of the state of danger because of the pandemic was extended on several occasions, until 31 May 2022.

C. The Disaster Management Act

65. With effect from 18 July 2020, the following amendment was added to the Disaster Management Act:

24/A. Extraordinary Government measures during a state of danger relating to a human epidemic causing mass disease
Section 51/A

"(1) In the state of danger declared to prevent, and to tackle the consequences of, the human epidemic causing mass disease and endangering the safety of life and property, and to protect the health and life of the Hungarian citizens, the Government may, in addition to the extraordinary measures and rules set out in subheadings 21-24, in order to guarantee the life, health, person, property and legal security of the citizens and the stability of the national economy, suspend the application of certain Acts, derogate from the provisions of Acts and take other extraordinary measures by way of a decree.

(2) The Government may exercise the powers in subsection (1) to the extent necessary and proportionate to the aim to be achieved, for the purpose of preventing, managing and eradicating the human epidemic, and to prevent or avert the adverse effects thereof."

66. The explanatory memorandum to the Bill amending the Disaster Management Act gave the following justification for the extraordinary powers granted to the Government in case of a state of danger caused by a pandemic:

"In view of Article 54(4) of the Fundamental Law, this proposal establishes a cardinal provision ensuring that, during a state of danger declared to prevent a pandemic causing mass illness that threatens life and property, to mitigate its consequences, and to protect the health and lives of Hungarian citizens, for the purpose of effectively managing this special situation, and in order to guarantee the safety of citizens' lives, health, personal security, property, and rights, as well as the stability of the national economy, the Government may, by decree, suspend the application of certain laws, deviate from statutory provisions, and adopt other extraordinary measures.

With this provision, the proposal grants the Government broader discretion compared to a state of danger declared for other reasons, which, as proven by practical experience in managing the COVID-19 pandemic, is an indispensable condition for protecting people's lives, health, and the national economy.

It is of fundamental importance that the Government may exercise this authority exclusively – to the extent necessary and in proportion to the objective sought – for the purpose of preventing, managing, and eradicating the pandemic, as well as preventing and mitigating its harmful effects."

D. Act no. I of 2021 on the Containment of the Coronavirus Pandemic

67. With effect from 22 February 2021, section 3 of Act no. I of 2021 on the Containment of the Coronavirus Pandemic required the Government to regularly report on the measures taken to mitigate the consequences of the COVID-19 pandemic at the sessions of the Parliament or, in the absence thereof, to the Speaker of the Parliament and the leaders of the parliamentary groups.

E. The Right of Assembly Act

68. The relevant provisions of the Right of Assembly Act read as follows:

Section 1
[Right of peaceful assembly]

"(1) Everyone shall have the right to organise and participate in peaceful and unarmed marches and demonstrations (hereinafter collectively referred to as a 'public gathering') together with others, without a permit or, subject to the exceptions provided for in this Act, without prior notice."

Section 2
[Definition of the term "public gathering"]

"(1) For the purposes of this Act, a public gathering is a public meeting for the purpose of expressing an opinion on a matter of public concern, attended by at least two individuals.

..."

Section 3
[Organiser of the public gathering]

"(1) The organiser of the public gathering is the person who publicly invites participants to attend the gathering, who announces the gathering (hereinafter together referred to as 'the announcement') and who organises and leads the gathering. The invitation shall state the name of the organiser.

..."

Section 10
[Notification of a gathering held in a public place]

"(1) Any person who organises a public gathering in a public place shall notify the competent police station – in Budapest the Budapest Police Headquarters – (hereinafter referred to as the 'authority for public gatherings') of the gathering no later than three months before the gathering is to be held and at least 48 hours before the announcement.

(2) Notification of a public gathering only needs to be given once, even if it is organised by more than one person. In such a case, the organisers shall either notify it jointly or the notifier shall act as proxy on behalf of the other organisers.

(3) Notice of a gathering may be given in writing or in person.

..."

Section 11
[Consultation after notification]

"(1) The general rules of administrative procedures shall be applicable to the handling of notifications subject to the derogations set out in this Act.

(2) Upon notification, the authority for public gatherings shall – where the assessment of the notification requires the organiser, the leader or any other person to be heard – hold a consultation according to the rules applicable to hearings, to which it shall summon the organiser or leader ..."

Section 13
[Grounds for prohibiting a public gathering]

"(1) Within 48 hours from receiving the notification, the authority for public gatherings shall prohibit the holding of the gathering at the place or time specified in the notification if, according to the information available after the consultation, there are valid reasons to assume that the gathering would directly, unnecessarily and disproportionately endanger public safety or public order, or would imply an unnecessary and disproportionate infringement of the rights and freedoms of others, and the protection of public safety, public order or the rights and freedoms of others cannot be guaranteed with a more lenient restriction specified in subsection (5).

...

(5) If the authority for public gatherings does not prohibit the gathering but for reasons of public safety, public order or the protection of the rights and freedoms of others it is necessary, it shall prescribe the conditions for holding the gathering in a decision for the organiser."

F. Act no. II of 2012 on Minor Offences

69. Section 189 of Act no. II of 2012 on Minor Offences, the Offence Procedure and the Offence Registration System states that any person who organises a gathering subject to notification without fulfilling the notification obligation commits a minor offence. Under section 224 of the same Act anyone who violates the road traffic rules specified in Joint Decree no. 1/1975. (II. 5.) KPM–BM on public road traffic rules shall be guilty of a minor offence.

70. Section 30 of Joint Decree no. 1/1975 (II. 5.) KPM-BM on the rules of public road traffic specified that sound signals could only be used in the event of a risk of an accident, to prevent an accident and – outside of residential areas – to indicate the intention to overtake.

II. RELEVANT INTERNATIONAL AND COMPARATIVE LAW MATERIAL

71. Relevant international law and comparative law material concerning COVID-19-related restrictions has been summarised in *Communauté genevoise d'action syndicale (CGAS)* (cited above, §§ 64-74) and *Central Unitaria de Traballadores/as v. Spain* (no. 49363/20, § 46, 17 October 2024).

72. Joint guidelines on freedom of peaceful assembly (CDL-AD(2019)017, third edition) issued by the Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Co-operation in Europe (OSCE) and the European Commission for Democracy through Law (the Venice Commission) of the Council of Europe have been cited in *Pleshkov and Others v. Russia* (nos. 29356/19 and 31119/19, § 41, 21 November 2023).

73. In his statement of 14 April 2020, the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association underlined that States' responses to the COVID-19 threat should not halt freedoms of assembly and association, and that while restrictions based on public health concerns were justified, it was imperative the crisis not be used as a pretext to suppress rights in general or the rights to freedom of peaceful assembly and association in particular ("States' responses to Covid 19 threat should not halt freedoms of assembly and association", Geneva, April 14, 2020, UN expert on the rights to freedoms of peaceful assembly and of association, Mr. Clément Voule, OHCHR).

THE LAW

I. JOINDER OF THE APPLICATIONS

74. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLES 10 AND 11 OF THE CONVENTION

75. The applicant association and the first applicant complained that the general prohibition of gatherings and the ensuing domestic decisions prohibiting their planned demonstrations had violated their right to freedom of assembly in breach of Article 11 of the Convention.

76. The second, third and fourth applicants complained under Articles 10 and 11 of the Convention that they had been found guilty of a minor offence of abuse of the right of assembly (second and third applicants) and of a violation of traffic rules because they had sounded their car horns at a public gathering (third and fourth applicants).

77. The relevant provisions of the Convention read as follows:

Article 10

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

Article 11

"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."

78. The Court notes that the issues of freedom of expression and freedom of peaceful assembly are closely linked in the present case. One of the distinctive criteria noted by the Court is that in the exercise of the right to freedom of assembly the participants would not only be seeking to express their opinion, but to do so together with others (see *Navalnyy v. Russia* [GC], nos. 29580/12 and 4 others, § 101, 15 November 2018, with further references). Whether a particular complaint falls to be examined under Article 10 or 11, or both, depends on the particular circumstances of the case and the gist of the applicant's grievances (see *Women On Waves and Others v. Portugal*, no. 31276/05, § 28, 3 February 2009). Being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018), the Court finds it appropriate to examine the applicants' complaints as follows.

79. In the case of the applicant association and of the first applicant, the thrust of their complaints is that they were prohibited from holding peaceful gatherings. The Court therefore finds that the applicants' complaints should be examined under Article 11 alone (see, *mutatis mutandis, Schwabe and M.G. v. Germany*, nos. 8080/08 and 8577/08, § 101, ECHR 2011; *Galstyan v. Armenia*, no. 26986/03, §§ 95-96, 15 November 2007; and *Primov and Others v. Russia*, no. 17391/06, § 91, 12 June 2014).

80. The second and third applicants claimed that their actions were simply individual expressions of opinion, not a gathering. The fourth applicant argued that the sound of horns came from multiple vehicles acting together, objecting to the Government's pandemic policies in a collective "outcry".

81. The domestic authorities found that the second, third and fourth applicants had taken part in a series of joint actions with a common subject matter that was characterised as a gathering under the relevant domestic law (see paragraphs 33, 37, 39, 41, 44 and 51-52 above). The events had been advertised, with a purpose, agenda, location, and start and end time, and the second and third applicants had coordinated the events at the roundabout and had held a press conference. The Court sees no reason to dispute the factual findings of the domestic authorities.

82. To avert the risk of a restrictive interpretation, the Court has refrained from formulating the notion of a gathering, which it regards as an autonomous concept, or exhaustively listing the criteria which would define it (see, for example, *Navalnyy*, cited above, § 98). In the second and third applicants' cases, although they did not consider the series of rallies in question to be public group events subject to notification under the applicable national law (see paragraph 68 above and paragraph 126 below), the Court would accept that the appearance of a group of cars taking laps together around a roundabout while sounding their horns to express their opinion concerning the same matter could reasonably be perceived as a gathering (see, *mutatis mutandis*, *Kasparov and Others v. Russia (no. 2)*, no. 51988/07, § 29, 13 December 2016). Whilst it is not bound by the legal qualification under Hungarian law of the applicants' actions as participation in a public group event, the Court finds that their intentions and actual conduct in these cases were covered by the notion of "peaceful assembly" contained in Article 11 of the Convention (see, *mutatis mutandis*, *Navalnyy,* cited above, § 111, and *Obote v. Russia*, no. 58954/09, § 35, 19 November 2019). As regards the proceedings against the third and fourth applicants for the violation of road traffic rules because they used their horns while driving around the roundabout, the Court notes that the applicants were sanctioned for their expressive conduct during the demonstration. In such circumstances, Article 11 is to be regarded as a *lex specialis* and it is unnecessary to take the complaint under Article 10 into consideration separately (see, *mutatis mutandis*, *Kasparov and Others v. Russia*, no. 21613/07, § 82, 3 October 2013; *Peradze and Others v. Georgia*, no. 5631/16, § 33, 15 December 2022; and *Chkhartishvili v. Georgia*, no. 31349/20, §§ 45-46, 11 May 2023).

83. At the same time, the issue of freedom of assembly cannot in the present case be entirely separated from that of freedom of expression. The Court therefore finds it appropriate to consider the second, third and fourth applicants' complaints under Article 11, interpreted in the light of Article 10 of the Convention (see, *mutatis mutandis, Kasparov and Others*, cited above, § 83; *Peradze and Others*, cited above, § 33; *Chkhartishvili*, cited above, § 33; *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, § 86, ECHR 2015; *Lashmankin and Others v. Russia*, nos. 57818/09 and 14 others, § 365, 7 February 2017; and *Sergey Kuznetsov v. Russia*, no. 10877/04, § 36, 23 October 2008).

A. Admissibility

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

B. Merits

1. The prohibition of the gatherings intended to be held by the applicant association and the first applicant

(a) The parties' submissions

(i) The applicant association and the first applicant

85. The applicant association intended to protest against legislative amendments it considered highly stigmatising and discriminatory with respect to LGBTQI people in early November 2020. The first applicant wanted to protest against the coronavirus policies of the Hungarian Government in March 2021. They argued that they had organised their respective demonstrations with due regard to the known risks of COVID-19 (see the respective circumstances of the planned gatherings in paragraphs 14 and 25 above).

86. The applicant association and the first applicant argued that the ban on their demonstrations had not been prescribed by law. Under Article 53 § 2 of the Fundamental Law and section 51/A(1) of the Disaster Management Act (see paragraphs 53 and 65 above), a government decree could only restrict the right to peaceful assembly if it served the purpose of preventing, handling and eradicating a human epidemic, was proportionate to that aim, and only restricted the right of assembly to the extent necessary. In the applicants' view, the blanket ban established by sections 4(1), 5(1) and (2) of Government Decree no. 484/2020 (XI. 10. – see paragraph 61 above) did not meet the above criteria.

87. In their opinion, the prohibition had not served any legitimate aim. The banned demonstrations had not posed a real, actual risk to the spread of COVID-19, for want of any physical contact between the participants. In their opinion, a prohibition that indiscriminately banned all kinds of public events could not actually serve any legitimate aim.

88. They also submitted that the police and the *Kúria* had banned the gatherings without considering whether the prohibition had been necessary or proportionate. The applicable Government decree had introduced a blanket ban on gatherings which had prevented the exercise of a fundamental right in its entirety. It had also prevented the police and the *Kúria* from examining the individual circumstances of any planned gathering and whether prohibiting the event would be a necessary and proportionate measure in the light of the specific circumstances of the case.

89. They emphasised that the prohibition of gatherings had remained in force for a total of 193 days, which had made protesting completely impossible for an extended period of time. The applicant association had not been able to hold the rally on 10 December 2020 (see paragraph 13 above) nor later on other dates that had been relevant with regard to the entry into force of the laws against which its demonstration had been intended. The first

applicant could not exercise his right of assembly for another 58 days counting from 26 March 2021, the day of his planned protest (see paragraph 25 above).

90. Lastly, the applicant association and the first applicant argued that the unnecessary and disproportionate nature of the restriction on their right of assembly had been clearly demonstrated by the fact that while Government Decree no. 484/2020 (XI. 10.) had generally prohibited the exercise of the right of assembly as a political freedom, it had not in any way restricted the holding of religious events aimed at exercising religious freedom, which had entailed similar risks in the context of a pandemic. It had also been possible to hold sporting events with no spectators. Funerals had also been permitted with the attendance of up to 50 people. Schools had been operating, while casinos and shops had been open at the time in question during the pandemic.

91. The applicant association and the first applicant also noted that the Hungarian Government had not informed the Secretary General of the Council of Europe of the blanket ban on gatherings and the reasons for it, and had not complied with their procedural obligation under Article 15 § 3 of the Convention to suspend the application of Article 11 of the Convention.

(ii) The Government

92. The Government submitted that Government Decree no. 478/2020. (XI. 3.) on the declaration of a state of danger as well as section 4(1) and section 5(1)-(2) of Government Decree no. 484/2020. (XI. 10.) had served as an appropriate legal basis for the decisions of the domestic authorities to prohibit the gatherings in question (see paragraphs 60-62 above). The gatherings for which the applicants had sought authorisation fell within the scope of section 5 of Government Decree no. 484/2020. (XI. 10.) and could not be characterised as any of the events specified in section 6(2), (3), (4) and (5) that would have been outside the scope of prohibited events (see paragraph 62 above).

93. The Government argued that the fight against COVID-19, including the reduction of its health, social and economic effects and the mitigation of the damage caused, were aims that had justified the restriction of fundamental rights, including freedom of assembly. The measures taken following the declaration of a state of danger had always been for a limited, fairly short period, with the intention of combating the pandemic as quickly as possible. In compliance with the provisions of the Fundamental Law, the exercise of certain fundamental rights, such as the right of assembly, had been restricted solely to the extent necessary to protect public order and public health.

94. The Government submitted that the developments with the pandemic had been constantly monitored, and measures had been introduced or repealed as required. The political oversight of Government Decree no. 478/2020 (XI. 3.) had been ensured by section 3 of Act no. I of 2021 which required the Government to regularly inform Parliament if restrictions

on fundamental rights were being maintained (see the relevant legislation in paragraph 67 above).

95. The Government concluded that the *Kúria* and the Constitutional Court had assessed the decisions prohibiting the gatherings and their circumstances in line with the Convention requirements. Therefore, no violation of the applicants' rights under Article 11 of the Convention could be established.

(b) The Court's assessment

(i) The existence of an interference with the exercise of rights protected by Article 11 of the Convention

96. It is not in dispute between the parties that the Government's prohibition of public gatherings and the decisions of the domestic authorities prohibiting the demonstrations planned by the applicant association and the first applicant had interfered with the exercise of their right to freedom of assembly. The Court sees no reason to reach a different conclusion.

97. Such interference will constitute a breach of Article 11 unless it was "prescribed by law", pursued one or more legitimate aims under paragraph 2 of Article 11 and was "necessary in a democratic society" for the achievement of the aim or aims in question (see *Kudrevičius and Others*, cited above, § 102).

(ii) Whether the interference was prescribed by law

98. The general principles pertaining to the lawfulness of an interference have been summarised in *Navalnyy* (cited above, §§ 114-15, with further references).

99. The Court notes that the police banned the demonstrations on the basis of sections 4 and 5 of Government Decree no. 484/2020 (XI. 10.). The *Kúria* found the decisions lawful as they were based on the legislation applicable at the time in question. It reasoned that the Government adopted Government Decree no. 484/2020 in accordance with Article 53 § 2 of the Fundamental Law and section 51/A of the Disaster Management Act, thus no question arose in relation to its lawfulness or constitutionality. In addition, the Constitutional Court did not find that sections 4 and 5 of Government Decree no. 484/2020 (XI. 10.) had failed to meet the conditions for restricting fundamental rights under Article 54 § 1 of the Fundamental Law (see paragraphs 15, 17, 21, 26 and 28-29 above).

100. Having regard to the domestic courts' conclusions as to the legal basis for the applicability of the prohibition of public events to the applicants' demonstrations, as well as the Constitutional Court's findings concerning the sufficiency and constitutionality of the legal basis for the impugned restrictions, the Court is prepared to accept that the interference was lawful.

(iii) Whether the interference pursued a legitimate aim

101. The Court has already noted that the COVID-19 pandemic threatened to have very serious consequences not just for health but also for society, the economy, the functioning of State institutions and the organisation of life in general (*Nemytov and Others v. Russia*, nos. 1257/21 and 2 others, § 112, 27 May 2025). It could therefore be regarded as an exceptional and unforeseeable situation. When examining various restrictions put in place to contain the pandemic, the Court has found that they were introduced in view of significant health considerations concerning not only the applicants but society at large (ibid., with further references).

102. In similar cases dealing with restrictions on the exercise of freedom of assembly in the context of the COVID-19 pandemic, the Court accepted that the interference in question had served the legitimate aims of the protection of health and the protection of the rights and freedoms of others (see *Central Unitaria de Traballadores/as v. Spain*, no. 49363/20, § 74, 17 October 2024; and *Nemytov and Others,* cited above, § 112).

103. Bearing that in mind, the Court considers that the interference pursued the legitimate aims of the protection of health and the protection of the rights and freedoms of others within the meaning of Article 11 § 2 of the Convention.

(iv) Whether the interference was necessary in a democratic society

(α) The applicable principles

104. The general principles concerning the necessity of an interference with freedom of assembly have been summarised in *Kudrevičius and Others* (cited above, §§ 142-60).

105. The right to freedom of assembly, one of the foundations of a democratic society, is subject to a number of exceptions which must be narrowly interpreted and the necessity for any restrictions must be convincingly established. When examining whether restrictions on the rights and freedoms guaranteed by the Convention can be considered "necessary in a democratic society" the Contracting States enjoy a certain but not unlimited margin of appreciation. It is, in any event, for the Court to give a final ruling on the restriction's compatibility with the Convention and this is to be done by assessing the circumstances of a particular case (see *Kudrevičius and Others*, cited above, § 142, and *Mushegh Saghatelyan v. Armenia*, no. 23086/08, § 238, 20 September 2018).

106. When the Court carries out its scrutiny, its 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, after having

established that it pursued a "legitimate aim", whether it answered a "pressing social need" and, in particular, whether it was proportionate to that aim and whether the reasons adduced by the national authorities to justify it were "relevant and sufficient". In so doing, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 11 and, moreover, that they based their decisions on an acceptable assessment of the relevant facts (see *Kudrevičius and Others*, cited above, § 143, and *Körtvélyessy v. Hungary*, no. 7871/10, § 26, 5 April 2016).

107. The proportionality principle demands that a balance be struck between the requirements of the purposes listed in paragraph 2 on the one hand, and those of the free expression of opinions by word, gesture or even silence by persons assembled on the streets or in other public places, on the other (see *Kudrevičius and Others*, cited above, § 144).

108. The Court has previously held that healthcare policy and public health measures come within the margin of appreciation of the national authorities, who are best placed to assess priorities, the use of resources and social needs. It has already had occasion to state that the margin of appreciation afforded to the Contracting States in the field of healthcare must be a wide one (see *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* ([GC] no. 21881/20, § 160, 27 November 2023, and *Vavřička and Others v. the Czech Republic* [GC], nos. 47621/13 and 5 others, §§ 274 and 280, 8 April 2021). Contracting States must also be allowed a wider margin of appreciation in relation to restrictions on the location, time or manner of conduct of an assembly when they are not based on the content thereof (see *Central Unitaria de Traballadores/as*, cited above, § 80 with further references).

109. Where a wide margin of appreciation is afforded to the national authorities, the procedural safeguards available to the individual will be especially material in determining whether the respondent State has, when fixing the regulatory framework, remained within its margin of appreciation. In particular, the Court must examine whether the decision-making process leading to measures of interference was fair and such as to afford due respect to the interests safeguarded to the individual by the Convention (see *Lashmankin and Others*, cited above, § 418).

110. The Court has also held that the State can, consistently with the Convention, adopt general measures which apply to pre-defined situations regardless of the individual facts of each case even if this might result in individual hard cases (see *Animal Defenders International v. the United Kingdom* [GC], no. 48876/08, § 106, ECHR 2013 (extracts), and *Ždanoka v. Latvia* [GC], no. 58278/00, §§ 112-15, ECHR 2006-IV). The application of the general measure to the facts of the case remains, however, illustrative of its impact in practice and is thus material to its proportionality (see *Nemytov and Others,* cited above, § 125, with further references). The quality

of the parliamentary and judicial review of the necessity of a general measure is of particular importance, in particular for determining the operation of the relevant margin of appreciation (*Animal Defenders International*, cited above, § 108, with further references).

111. The Court has also emphasised that the outright prohibition of a certain type of conduct is a drastic measure which requires strong reasons to justify it and calls for particularly thorough scrutiny by the courts empowered to weigh up the interests at stake (see, *mutatis mutatis* and in relation to the prohibition of begging, *Lacatus v. Switzerland*, no. 14065/15, § 101, 19 January 2021, with further references).

112. Lastly, the Court considers that a prior ban can have a chilling effect on those who may intend to participate in a rally (see *Lashmankin and Others*, cited above, § 404) and that the assessment of the proportionality of the measures must take account of their potentially chilling effect (see *Christian Democratic People's Party v. Moldova*, no. 28793/02, § 77, ECHR 2006-II).

(β) Application of the above principles in the present case

113. At the outset, the Court takes note of the applicants' argument that Hungary did not avail itself of its right to derogate from the Convention under Article 15, which allows a State Party to take certain measures derogating from its Convention obligations in time of war or other public emergency threatening the life of the nation (see paragraph 91 above). Accordingly, it was required to abide by the Convention under Article 1 and, with regard to the present case, to comply fully with the requirements of Article 11, within the margin of appreciation afforded to it.

114. As to the extent of the margin of appreciation enjoyed by Hungary in determining restrictions to the right to freedom of assembly, the Court notes the following.

115. In *Central Unitaria de Traballadores/as* (cited above, § 81), which concerned a non-content-based prohibition of a demonstration at a specific location and time during the early stages of the COVID-19 pandemic in April 2020 in Spain and in *Nemytov and Others* (cited above, § 117), which concerned a ban on public events introduced in Moscow and Saint Petersburg in March 2020 and the applicants' arrests and prosecutions in administrative-offence proceedings for staging solo demonstrations on 26 May 2020, 5 June 2020 and 25 June 2020 in Moscow or for participating in rallies in breach of the ban on 31 January 2021 in Saint Petersburg, the Court accepted that the margin of appreciation reserved to the authorities was a wide one. It sees no reason to reach a different conclusion in the present case, in which demonstrations planned for 10 December 2020 and 26 March 2021 were banned (see paragraphs 13-16 and 25-27 above) because of the general prohibition of gatherings during the second wave of the pandemic in Hungary.

116. Further, the Court has recently observed, in the context of the early stages of the pandemic, that there was common ground among the member States of the Council of Europe regarding the need to take urgent measures to protect public health. At the same time, however, there was no European consensus concerning the form those measures should take (see *Central Unitaria de Traballadores/as*, § 79, and, for comparative material, *Communauté genevoise d'action syndicale (CGAS)*, §§ 71-74, both cited above). With particular regard to freedom of assembly, some member States decided to formally prohibit any gatherings in public areas, without providing for exceptions for demonstrations; in several other States, such gatherings remained authorised throughout the COVID-19 pandemic, subject, however, to limits on the number of participants, which were sometimes very low; in two States gatherings were not formally banned but certain previously planned demonstrations were in practice prohibited (see *Communauté genevoise d'action syndicale (CGAS)*, cited above, §§ 71-73).

117. Hungary belonged to the first group of States: its Government resorted to the formal prohibition of gatherings in public areas, without providing for exceptions for demonstrations, several times during the COVID-19 pandemic. It was for the second time since the outbreak of the pandemic that on 10 November 2020 the Government introduced a complete ban on all gatherings which was successively extended on several occasions and remained in effect until 22 May 2021 (see paragraphs 61-63 above).

118. The demonstrations of the applicant association and the first applicant were prohibited by the police on the basis of the Government ban in force at the time, decisions which were upheld by the *Kúria*. The Constitutional Court refused to annul the prohibition as it found its introduction justified during the second wave of the pandemic in Hungary. It found that the prohibition had emerged in response to the unprecedented challenge posed by the pandemic and pursued the legitimate aim of combating it, including reducing its health, social and economic impact and mitigating the damage caused by it (see paragraph 22 above). That position is consonant with the Court's view that the COVID-19 pandemic threatened to have very serious consequences not just for health, but also for society, the economy, the functioning of the State institutions and the organisation of life in general, and was therefore a situation that could be characterised as exceptional and unforeseeable circumstances (see *Nemytov and Others*, cited above, § 112, *Central Unitaria de Traballadores/as*, cited above, § 83, and *Terheş v. Romania* (dec.), no. 49933/20, § 39, 13 April 2021). As the Court has already pointed out in the context of the pandemic, Contracting States are under a positive obligation by virtue of Articles 2 and 8 of the Convention to take appropriate measures to protect the life and health of those within their jurisdiction (see *Nemytov and Others*, cited above, § 122, with further references).

119. The Court has previously held that in order to determine the proportionality of a general measure, the Court must primarily assess the legislative choices underlying it (see *Animal Defenders International*, cited above, § 108). The core issue is whether, in adopting the general measure and striking the balance it did, the legislature acted within the margin of appreciation afforded to it (ibid., § 110).

120. The Court notes that in the present case the Government was authorised by Parliament to adopt exceptional general measures (see paragraph 65 above) by way of decrees to swiftly counter the unprecedented threat posed by the COVID-19 pandemic. Acting on this parliamentary authorisation, the Government decided to suspend the exercise of the right to freedom of assembly between 11 November 2020 and 22 May 2021 (see paragraphs 62-63 above). The Court takes note of the Government's argument that the political oversight of government decrees on the measures taken to mitigate the consequences of the pandemic had been ensured by section 3 of Act no. I of 2021 which required the Government to regularly inform Parliament, or in the absence of parliamentary sessions, the Speaker of the Parliament and the leaders of the parliamentary groups if restrictions on fundamental rights were being maintained (see paragraphs 67 and 94 above). However, the Government submitted no information on whether justifications for the continuing restrictions on freedom of assembly have been submitted to the Parliament to ensure the restrictions' public and transparent review following the entry into force of this requirement on 22 February 2021. There is, accordingly, no information showing that a weighing of the competing interests and rights at stake has been carried out at this stage.

121. Under these circumstances, the Court considers that effective judicial review of the measures taken by the executive was all the more vital.

122. However, despite the importance of the examination carried out by the domestic courts, their assessment of the case was confined to the automatic application of the prohibition, falling short of the requirement to conduct a genuine analysis of its proportionality. The *Kúria* held as a matter of principle that a decision to prohibit a gathering based on a legal provision that prohibited the holding of gatherings during a state of danger was lawful and that such a general ban precluded the authority for public gatherings from considering the specific circumstances of an individual case (see paragraphs 18 and 28 above). Even though the Constitutional Court assessed the appropriateness of the general ban to combat the spread and consequences of the COVID-19 pandemic, it did not thoroughly assess the proportionality of the general prohibition or its application to facts such as those of the demonstrations in question (see paragraphs 22 and 29 above). As regards the proportionality of the general prohibition, the Constitutional Court confined itself to a succinct statement that the applicant association sought to organise its demonstration on 10 December 2020 and it could not be established that,

during this period – at the height of a new wave of the pandemic – the rule generally prohibiting gatherings was unconstitutional (see paragraph 22 above).

123. As a consequence, the domestic authorities did not take into account the purpose of the demonstrations, which concerned matters of public interest in reaction to recent legislative changes and the Government's handling of the pandemic. Nor did they address in detail the circumstances of the demonstrations planned by the applicant association and the first applicant (compare and contrast, in so far as relevant, *Central Unitaria de Traballadores/as*, cited above, §§ 94-95, where the domestic courts conducted a detailed and swift assessment of the relevant circumstances of the planned demonstration and a thorough balancing of the conflicting rights). As argued by the applicant association and the first applicant, it had never been established that their planned protests would have carried a risk of contagion. Both demonstrations would have been small-scale, with a maximum of 30 (applicant association) and 10 participants (first applicant). In both cases, participants would have been sitting in cars alone, wearing masks (see paragraph 14 and 25 above).

124. Thus, the balancing exercise between the competing interests at stake, required by the Court for the purposes of assessing the proportionality of such a drastic measure as an outright prohibition on all gatherings, was not carried out (see, *mutatis mutandis*, *Kudrevičius and Others,* cited above, § 144, with further references). This is especially concerning in view of the fact that the blanket ban remained in place for a total of 193 days (see paragraph 89 above), which is a significant length of time. Furthermore, although a complete prohibition on public gatherings was imposed during this period, just as it had been during the first wave of the pandemic, the curfew restrictions in place during this time were somewhat less stringent than the general curfew imposed during the first wave, as they were limited to the period between 8 p.m. and 5 a.m. (see paragraphs 56 and 61 above).

125. The foregoing considerations are sufficient to enable the Court to conclude that the domestic authorities overstepped the wide margin of appreciation afforded to them. In particular, in the absence of proof of a proper balancing exercise by the lawmaker or the domestic courts between the competing interests at stake, it has not been convincingly shown that the interference in the cases of the applicant association and of the first applicant was proportionate to the legitimate aims pursued and was therefore necessary in a democratic society. There has accordingly been a violation of Article 11 of the Convention in respect of the applicant association and the first applicant.

2. The administrative-offence proceedings against the second, third and fourth applicants

(a) The parties' submissions

(i) The second, third and fourth applicants

126. The second and third applicants submitted that their actions were to be considered as expressions of opinion and their joint action could not be considered as a gathering. Both the applicants and the people who had joined in with sounding their horns had wished to express their opinions on public issues alone, in their own cars, taking into account the epidemiological situation and respecting the rules thereof. In their view, they had therefore not been under any obligation to notify the police of their expression of opinion.

127. At the same time, the second and third applicants acknowledged that the Government prohibition of gatherings during the period in question played a central role in their case as they had been found guilty of organising gatherings.

128. As regards the general prohibition of gatherings the second and third applicants argued that even if the need to combat the pandemic justified to a certain extent the restriction of social interactions, the prohibition of gatherings laid down in Government Decree no. 46/2020 (III. 16. – see paragraph 55 above) was a disproportionate interference with the rights protected by Article 11 of the Convention.

129. As regards fining them as organisers in administrative-offence proceedings, they argued that the measures had not served any legitimate purpose. The protests in which the second and third applicants had participated had not posed a threat to public order and had not been likely to jeopardise the effectiveness of measures to combat the pandemic. The measures introduced to combat the pandemic had not prohibited people from traveling by car, and their protest had taken place in that manner. The participants had not blocked traffic with their cars; traffic flow had not been disrupted.

130. The second and third applicants further argued that by sanctioning them in administrative-offence proceedings, the domestic authorities had also interfered with their right to freedom of expression. Sounding their horns conveyed a message for communication purposes that was recognizable to the outside world. They argued that Article 10 of the Convention protected expression regardless of its form. Nevertheless, the domestic authorities had failed to acknowledge that they had been exercising their freedom of expression by sounding their horns, and, as a consequence, the authorities had failed to assess the necessity and proportionality of the restriction on their freedom of expression.

131. Lastly, they submitted that the imposition of a considerable fine on them had been disproportionate to the protection of public health, the rights of others or public order. The chilling effect of the sanctions extended beyond

the organisation of peaceful gatherings and was also capable of restricting the free exercise of political opinions.

132. For his part, the fourth applicant complained that the respondent State had violated his right to freedom of assembly and expression under Articles 10 and 11 of the Convention by failing to recognise his non-verbal expression as an exercise of that right and instead holding him responsible in administrative proceedings for violating traffic rules because he had used his car horn during a demonstration.

133. The fourth applicant did not dispute that the restriction on his freedom of expression had been prescribed by law.

134. As regards his freedom of assembly, he submitted that the Government had not demonstrated that his conduct or that of the gathering he had joined, or any gatherings of a similar nature, had posed a risk to public health. In his view, a general reference to the pandemic was not sufficient; necessity under Article 11 § 2 of the Convention required contextual, evidence-based justifications. The setup of the rally had eliminated direct exposure between people. As the participants had remained in their individual cars, they had not engaged in any physical contact. The protest had been a creative and responsible response to the restriction imposed by the Government. The fact that such a carefully planned, safe protest had been prohibited revealed the rigid and indiscriminate character of the prohibition of gatherings, which had resulted in categorical oppression rather than calibrated protection.

135. The prohibition was indiscriminate. Domestic authorities had limited their review to the formal legality of the government decree that had imposed the prohibition on gatherings and whether it had been in force at the material time, but they had declined to examine whether the underlying restriction had been necessary and proportionate in a democratic society.

136. He also noted that Government Decree no. 71/2020 (III. 27. – see paragraph 56 above) on the curfew had not prohibited movement outright: it had imposed restrictions but with certain exceptions for work, shopping or physical activity. In his opinion the fact that those activities had been permitted while political protest had been completely banned had been unreasonable and arbitrary.

137. As regards his freedom of expression, the fourth applicant argued that the domestic authorities had failed to engage with the facts of the case. Even though he had explained the reasons for using the horn at the location of the gathering, in the ensuing administrative proceedings, those reasons had not been taken into account by the authorities. Neither the police nor the Pest Central District Court had properly examined whether the violation of a traffic rule could take precedence over the applicant's freedom of expression. The Constitutional Court had also failed to engage in the balancing exercise as it had found that the form of expression in question, the sounding of the

horn, had not enjoyed the protection of freedom of expression in the particular circumstances of the case (see paragraph 52 above).

138. The fourth applicant argued that in his case there were a number of reasons why the use of a horn had not posed any risk to public safety. The rallies had been previously announced and coordinated and a great number of police officers had been present at the site of the event. The sounds of horns had not been coming from an individual car while warning of a risk of an accident, or signalling an intention to overtake, but from a group of vehicles collectively using their horns, expressing their major objection to the Government pandemic policies in a collective "outcry". In his opinion, it had therefore been obvious to others not participating in the demonstration that the horns had not been used for their generally accepted and prescribed purpose.

139. Furthermore, given the short duration of the protest, the coordinated use of horns and the large number of police officers present at the scene, there had been no risk of an accident. Even if there had been a risk of an accident, the police officers could have immediately prevented it. In addition, the Government did not show any risk to public health on the basis of how the protest had been carried out.

140. The fourth applicant concluded that the warning issued to him had been an unnecessary sanction on the exercise of his freedom of assembly and expression.

(ii) The Government

141. The Government submitted that Government Decree no. 40/2020 (III. 11.), Government Decree no. 46/2020 (III. 16.) and Government Decree no. 71/2020 (III. 27. – see paragraphs 54-56 above) served as an appropriate legal basis for the decisions of the domestic authorities. Section 4(1) of Government Decree no. 46/2020 (III. 16. – see paragraph 55 *in fine* above) generally prohibited all gatherings, the organisation of gatherings and being present at the location of a gathering, thus introducing restrictive measures applicable to the entire population.

142. The aim of the ban was to reduce the health, social and economic effects of the coronavirus pandemic and to mitigate the damage caused by it.

143. The Government emphasised that in order to protect public health, they had declared a state of danger for the entire territory of Hungary on 11 March 2020 by Government Decree no. 40/2020 (II. 11. – see paragraph 54 above). They had introduced a number of restrictions by means of decrees in order to contain the coronavirus outbreak, including a curfew, distance learning, distance working and a ban on attending large gatherings for a period of time specified in the decrees. The number of infected persons and deaths in Hungary had been on the rise, and the first vaccine against the virus had only become available in December 2020. All those factors had justified the necessity of the restriction of the right of assembly during the period in

question. They emphasised that the restrictions had been applied for a limited, fairly short period, and that they had been introduced or repealed as required by the epidemiological situation. The right to freedom of assembly had been restricted solely to the extent necessary to protect public order and public health in a proportionate manner.

144. Concerning the sanctions imposed on the second, third and fourth applicants the Government stressed that the organisers of the gatherings in question had not attempted to notify the authorities of the protests, instead they had announced them on social media. The events could have therefore led to an uncertain and potentially large number of participants, and there had been no guarantee that the participants would not have come into direct contact with each other before, during or after the gatherings, which meant that there had been a possibility of a further spread of the virus.

145. The Government noted that States were entitled to sanction those who did not respect the requirement of prior notification of public gatherings. Spontaneous demonstrations might, in exceptional cases, be exempted from the requirement of prior notification if they were justified by an immediate reaction to a current event. However, the measures introduced in response to the coronavirus pandemic had not justified such an immediate reaction. Furthermore, the reduced fines imposed on the second and third applicants and the warning imposed on the fourth applicant could not be considered disproportionate in the given circumstances.

146. With regard to the use of car horns, the Government shared the opinion of the Constitutional Court that, since the conduct in question had constituted a minor infringement of the traffic rules, had been committed during a state of danger, while participating in a gathering organised without previous announcement in violation of the provisions of the Right of Assembly Act and during a period of a general prohibition on gatherings, it could not be considered non-verbal expression protected by the right to freedom of expression.

(b) The Court's assessment

(i) Existence of an interference

147. All three applicants were reported by the police and prosecuted in administrative-offence proceedings for the abuse of the right of assembly, for minor violation of traffic rules, for the infringement of the rules of conduct relating to the curfew and for the infringement of the prohibition of participating in gatherings. At the end, proceedings concerning the infringement of curfew rules and the ban on participating in gatherings were terminated, as the acts in question were either not minor offences at the time they were committed or they ceased to be minor offences at the time of the adjudication of the applicants' cases by the police or the domestic courts (see paragraphs 37, 42 and 49 above). Furthermore, for want of evidence,

proceedings against the second applicant for minor violation of traffic rules were also terminated (see paragraph 37 above).

148. The Court notes that the second and third applicants argued before the domestic authorities and the Court that their actions of taking a few laps of the roundabout on Clark Ádám Square while sounding their horns had to be considered as individual expressions of opinion and their joint action could not be considered as a gathering (see paragraph 126 above). However, they were convicted of abuse of the right of assembly for failing to notify the police of the events that the domestic authorities said they had organised (see paragraphs 37 and 42 above). Furthermore, it has not been disputed by the second and third applicants that they shared the events on social media, took part in the series of car protests and held press conferences at the location of the demonstrations (see also paragraph 81 above). The Court has previously found an interference with the right to peaceful assembly in cases where applicants denied taking part in a rally but were nonetheless sanctioned for their alleged participation (see *Nemytov and Others*, cited above, § 106, and the cases cited therein). The Court finds that the same approach could be applied in the present case where the second and third applicants maintained that the exercise of their freedom of expression had not happened within the framework of public gatherings, nevertheless they had been sanctioned for failing to notify the police of the events.

149. The Court therefore considers that the second and third applicants' conviction for abuse of the right of assembly must be regarded as constituting an interference with the exercise of their right to freedom of assembly, interpreted in the light of their right to freedom of expression (see also the conclusion in paragraph 82 above).

150. Regarding the act of sounding the car horns, the Court reiterates that Article 10 of the Convention protects not only the substance of the ideas and information expressed, but also the form in which they are conveyed (see *Oberschlick v. Austria (no. 1)*, 23 May 1991, § 57, Series A no. 204). A review of the Court's case-law shows that Article 10 of the Convention has been held to be applicable not only to the more common forms of expression such as speeches and written texts, but also to other and less obvious media through which people sometimes choose to convey their opinions, messages, ideas and criticisms (see *Murat Vural v. Turkey*, no. 9540/07, § 44, 21 October 2014). All means of expression are included in the ambit of Article 10 of the Convention. For example, in *Hashman and Harrup v. the United Kingdom* ([GC], no. 25594/94, § 28, ECHR 1999-VIII) holding a protest during which a fox hunt was disrupted by blowing a hunting horn and by engaging in hallooing was held to constitute an expression of opinion within the meaning of Article 10 of the Convention. At the same time, the Court notes that the third and fourth applicants' expressive conduct was carried out during a demonstration and refers back to its earlier finding that, in such circumstances, Article 11 is to be regarded as a *lex specialis* and it is

unnecessary to take the complaint under Article 10 into consideration separately (see paragraphs 82-83 above).

151. In view of the above the Court considers that the third and fourth applicants' sanctioning for the use of their horns constituted an interference with the exercise of their right to freedom of assembly, interpreted in the light of their right to freedom of expression (see also the conclusion in paragraphs 82-83 above).

(ii) Whether the interference was prescribed by law

152. As regards the second applicant, he was found guilty of abuse of the right of assembly under section 189 of Act no. II of 2012 on Minor Offences (see paragraphs 35, 37 and 69 above).

153. The third applicant was found guilty of abuse of the right of assembly and of a minor violation of traffic rules under sections 189 and 224 of Act no. II of 2012 on Minor Offences, respectively (see paragraphs 42 and 69 above).

154. The fourth applicant was found guilty of a minor violation of traffic rules under section 224 of Act no. II of 2012 on Minor Offences (see paragraphs 50 and 69 above).

155. The Court is satisfied that the interferences were based on the above legal provisions in force at the time in question and thus they were "prescribed by law" within the meaning of Article 11 § 2 of the Convention.

(iii) Whether the interference pursued a legitimate aim

156. The Court accepts that the impugned sanctions pursued the legitimate aims of protecting public health and public safety as well as protection of the rights of others (see, *mutatis mutandis*, paragraph 103 above).

(iv) Whether the interference was necessary in a democratic society

(α) The applicable principles

157. In addition to those set out in paragraphs 105-112 above, the Court considers the following principles to be relevant in relation to the conviction of the second, third and fourth applicants in administrative-offence proceedings.

158. It is not, in principle, contrary to the spirit of Article 11 if, for reasons of public order and national security a High Contracting Party requires that the holding of meetings be subject to authorisation. Indeed, the Court has previously considered that notification, and even authorisation procedures, for a public event do not normally encroach upon the essence of the right under Article 11 of the Convention as long as the purpose of the procedure is to allow the authorities to take reasonable and appropriate measures in order to guarantee the smooth conduct of any assembly, meeting or other gathering.

Organisers of public gatherings should abide by the rules governing that process by complying with the regulations in force (see *Kudrevičius and Others*, cited above, § 147).

159. Prior notification serves not only the aim of reconciling the right of assembly with the rights and lawful interests (including the freedom of movement) of others, but also the aim of preventing disorder or crime. In order to balance these conflicting interests, the institution of preliminary administrative procedures appears to be common practice in member States when a public demonstration is to be organised. However, regulations of this nature should not represent a hidden obstacle to freedom of peaceful assembly as protected by the Convention (ibid., § 148).

160. An unlawful situation, such as the staging of a demonstration without prior authorisation, does not necessarily justify an interference with a person's right to freedom of assembly. While rules governing public assemblies, such as the system of prior notification, are essential for the smooth conduct of public demonstrations, since they allow the authorities to minimise the disruption to traffic and take other safety measures, their enforcement cannot become an end in itself. In particular, where demonstrators do not engage in acts of violence it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance (ibid., § 150).

161. The absence of prior authorisation and the ensuing "unlawfulness" of the action do not give carte blanche to the authorities; they are still restricted by the proportionality requirement of Article 11. Thus, it should be established why the demonstration was not authorised in the first place, what the public interest at stake was, and what risks were represented by the demonstration (ibid., § 151).

162. Any demonstration in a public place may cause a certain level of disruption to ordinary life, including disruption of traffic. This fact in itself does not justify an interference with the right to freedom of assembly, as it is important for the public authorities to show a certain degree of tolerance. 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" (ibid., § 155). The limits of tolerance expected towards an unlawful assembly depend on the specific circumstances, including the duration and the extent of public disturbance caused by it, and whether its participants had been given sufficient opportunity to manifest their views (see *Frumkin v. Russia*, no. 74568/12, § 97, 5 January 2016).

163. The general principles on whether an interference under Article 10 of the Convention was "necessary in a democratic society" were summarised in *Stoll v. Switzerland* ([GC], no. 69698/01, § 101, ECHR 2007-V), *Animal*

Defenders International (cited above, § 100), and *Morice v. France* ([GC], no. 29369/10, § 124, ECHR 2015).

(β) Application of the above principles in the present case

– *The margin of appreciation in the present case and the general ban on public gatherings*

164. The Court refers to its earlier finding that States enjoy a wide margin of appreciation in responding to serious public-health emergencies, especially in the early and uncertain stages of the COVID-19 pandemic (see, *mutatis mutandis*, *Central Unitaria de Traballadores/as*, § 81 and *Nemytov and Others*, § 117, both cited above). It sees no reason to reach a different conclusion in the present case where the protest actions took place in April and May 2020, in the exceptional context of the early stages of the pandemic.

165. The police and domestic courts dealt with the situation arising from the protests as a matter falling primarily within the ambit of the regulations concerning public gatherings requiring prior notification in the case of the second and third applicants (see paragraphs 33-37 and 41-42 above) and as a matter falling within the ambit of traffic regulations in the case of the third and fourth applicants (see paragraphs 41-42 and 47-51 above), without disregarding the fact that the protest actions had taken place in violation of the ban on public gatherings then in force.

166. It is not the Court's task to review the relevant domestic law in the abstract, but to determine whether the manner in which it actually affected the applicants infringed their rights under Article 11 of the Convention. However, when examining the issues raised in the case before it, more specifically the measures taken against the applicants in connection with their peaceful protests, the Court must not lose sight of the general context, that is to say, in the second, third and fourth applicants' cases, a ban on public gatherings between 16 March 2020 and 17 June 2020 and the relevant justifications (see, *mutatis mutandis*, *Nemytov and Others*, cited above, § 120, with further references).

167. As regards the justification for the prohibition of public gatherings, the Court takes note of the Constitutional Court's finding that the prohibition aimed at reducing the pandemic's health, social and economic impact (see paragraph 21 above) and the Government's argument that several urgent and drastic measures had to be introduced to contain the outbreak of COVID-19, including a curfew, distance learning, distance working and a ban on attending large gatherings for a period of time. The Government emphasised that as the number of infected persons and deaths in Hungary had been on the rise, and the first vaccine against the virus had only become available in December 2020, the restriction of the right of assembly during the period in question had been justified (see paragraph 143 above).

168. The Court notes that in the spring of 2020, the respondent State, like other European States, faced an unprecedented epidemiological situation

characterised by scientific uncertainty and the urgent need to prevent the uncontrolled spread of a potentially fatal virus. In such circumstances, the Government, under Articles 53 § 2 and 54 § 1 of the of the Fundamental Law (see paragraph 53 above), were entitled to adopt broad precautionary measures aimed at combatting the spread of the coronavirus, including measures such as a prohibition of public gatherings limiting social interaction and reducing the risk of transmission.

169. As in earlier cases concerning temporary restrictions on freedom of assembly during the COVID-19 pandemic, the Court is prepared to accept, in principle, that the prohibition of public gatherings in force at the time was introduced to address a pressing social need to protect individual and public health (see *Central Unitaria de Traballadores/as*, §§ 83-84 and *Nemytov and Others*, § 123, both cited above). The Court notes that in the present case the prohibition on public gatherings was in force for a relatively short period, that is three months between 16 March 2020 and 17 June 2020 (see paragraphs 55 and 57 above).

170. Against this background, and reiterating that the application of the general measure to the facts of the case remains illustrative of its impact in practice and is thus material to its proportionality (see *Nemytov and Others*, cited above, § 125; *Animal Defenders International*, cited above, § 108, and *M.C. v. the United Kingdom*, no. 51220/13, § 52, 30 March 2021), the Court will now turn to the specific circumstances of the second, third and fourth applicants' cases.

– *The second, third and fourth applicants' prosecution in administrative-offence proceedings*

171. The Court notes that the second, third and fourth applicants were sanctioned for peaceful demonstrations, which had lasted for a couple of minutes (taking laps of the roundabout), or, if taking into account the fact that the second and third applicants also gave press conferences at the location of the protest, no more than 50 minutes (see paragraphs 34, 36 and 40 above). In general, between 20 and 50 participants were present around Clark Ádám Square from week to week, either in cars, on bicycles or as pedestrians (see paragraphs 34 and 40 above).

172. In the course of the administrative offence proceedings initiated following the demonstrations, the domestic authorities established that the second and third applicants had been the organisers of the events and observed that they had failed to comply with the prior notification requirement and convicted them for abuse of the right to assembly. The third and fourth applicants were found guilty of a minor infringement of traffic rules because they sounded their car horns while taking a few laps of the roundabout on Clark Ádám Square during the protests in question: the third applicant on 27 April, 4 May, 11 May and 18 May 2020 (see paragraphs 40

and 42 above), and the fourth applicant on 11 May 2020 (see paragraphs 46 and 50 above).

173. The Court stresses that it remains in the first place within the purview of the national authorities' discretion, having direct contact with those involved, to determine how to react to a public event (see, *mutatis mutandis*, *Novikova and Others v. Russia*, nos. 25501/07 and 4 others, § 169, 26 April 2016). The Court also reiterates that the principle of discretionary prosecution leaves States considerable room for manoeuvre in deciding whether or not to institute proceedings against someone thought to have committed an offence (for instance, in relation to non-compliance with the rules concerning public gatherings) and, more generally, whether a certain action or omission should be subject to prosecution by way of criminal or other proceedings (see *Novikova and Others*, cited above, § 187).

174. Even though the second, third and fourth applicants were convicted for administrative offences unrelated to the restrictions introduced due to the COVID-19 pandemic, the domestic courts, including the Constitutional Court, had regard to the general context (see paragraphs 39, 45 and 51-52 above), that is the pandemic and the resulting prohibition on all public gatherings and the fact that the second, third and fourth applicants participated in gatherings despite the general prohibition in force.

175. In the light of the considerations related to health protection, including the need to minimise transmission of the virus and to ensure the implementation of the protective measures in force, the Court is prepared to accept that the applicants' conduct could justify some form of intervention by the authorities (see, *mutatis mutandis, Nemytov and Others,* cited above, § 126). It reiterates, however, its earlier findings, reached in the context of the absence of prior authorisation, that the ensuing "unlawfulness" of the action does not give to the authorities carte blanche; they are still restricted by the proportionality requirement of Article 11 (ibid.; see also *Kudrevičius and Others*, cited above, § 151).

176. The Court notes that, despite the failure to notify them of the planned protest actions, the police were present on all occasions and were in a position to evaluate the situation, detect any potential risks posed by the protesters and take any necessary measures. The police did not immediately disperse the gathering, did not interfere with the press conferences held by the second and third applicants, and let the cars driving through the roundabout and honking their horns. However, some of the drivers, including the second, third and fourth applicants, were subsequently stopped by the police, their identities were checked, and they were reported for traffic violations and other administrative offences related to violations of assembly rules and COVID- 19 restrictions.

177. Given the timing of the police intervention and the fact that the participants in the demonstration were given the opportunity to express their

views, the Court considers that it cannot be said that the police failed to show an adequate degree of tolerance with regard to the gatherings.

178. As regards the conviction of the second and third applicants for not notifying the police of the planned protest actions, the domestic courts weighed all the relevant circumstances of the gatherings in concluding that the second and third applicants were considered the organisers of the events and were therefore subject to the notification requirement (see paragraphs 35, 37 and 42 above). The Constitutional Court reviewed whether the District Court had violated their rights to freedom of expression or freedom of assembly by its assessment of the nature of the gathering and its organisation but found that the criteria assessed by the court were consistent with the Constitutional Court's case-law regarding these two rights (see paragraphs 39 and 44 above).

179. With regard to the notification obligation itself, the Court considers that it could retain some practical value even during a general prohibition of gatherings as it would have allowed the police to prepare for the demonstrations that took place despite the ban, to undertake any health-risk management and to organise traffic and public safety measures. In this connection the Court refers to the Constitutional Court's opinion on the obligations of domestic authorities relating to the exercise of the right of assembly in the context of a pandemic (see paragraph 39 above).

180. As regards the conviction of the third and fourth applicants for sounding their car horn while driving through the roundabout, the Court observes that the Pest Central District Court took into account the applicants' arguments regarding freedom of expression when reaching its decision. It acknowledged that opinions could not be expressed solely through verbal means at a demonstration. At the same time, it found that, under the circumstances, the sound of the horns had been incomprehensible to outside observers and that the sound signals of vehicles on the road were misleading in situations that did not involve an accident and were capable of causing traffic accidents (see paragraphs 42 and 51 above). The Constitutional Court found that the form of expression in question, the use of car horns, did not enjoy the constitutional protection of freedom of expression because the applicants in question took part in an event which was in breach of the general prohibition of gatherings (see paragraphs 45 and 52 above).

181. In light of the above and the of fact that its task is not to substitute its own view for that of the relevant national authorities but rather to review under Article 11 of the Convention the decisions they took (see *Kudrevičius and Others*, cited above, § 143 and, most recently, *Central Unitaria de Traballadores/as*, cited above, § 76), the Court finds that the domestic authorities based their decisions on an acceptable assessment of the facts and on reasons which were relevant and sufficient.

182. The second, third and fourth applicants further argued that the sanctions imposed on them by the national authorities had been

disproportionate. The Court notes that national courts reduced by more than half the amounts of the fines imposed by the police (see paragraphs 35, 37 and 42 above). At the end, the second applicant was fined a total of EUR 530 for abuse of the right of assembly related to the five protest actions he participated in between 20 April and 18 May 2020. The third applicant was fined EUR 280 for a violation of traffic rules and abuse of the right of assembly on four counts. The fourth applicant was only issued a warning (see paragraph 50 above). Having regard to the reduced amount of fines for repeated violations in the case of the second and third applicants and the lenient nature of the sanction in case of the fourth applicant, the Court does not consider that the present sanctions rendered the interferences with the applicants' rights disproportionate (compare *Rai and Evans v. the United Kingdom* (dec.), no. 26258/07, 17 November 2009).

183. Bearing in mind the authorities' wide margin of appreciation, as well as the exceptional factual context of the case related to the early stages of the pandemic, the Court concludes that the authorities struck a fair balance between the legitimate aims of the protection of health, public safety and the rights and freedoms of others on the one hand, and the requirements of freedom of assembly on the other. Thus, they did not overstep their margin of appreciation in the case of the second, third and fourth applicants (see, *mutatis mutandis*, *Kudrevičius and Others*, cited above, § 182).

184. As the interferences complained of were "necessary in a democratic society" within the meaning of Article 11 of the Convention, interpreted in the light of Article 10, there has been no violation of that provision in respect of the second, third and fourth applicants.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

185. 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

186. In respect of non-pecuniary damage, the applicant association claimed 15,000 euros (EUR) and the first applicant claimed EUR 5,000.

187. The Government considered the claims excessive.

188. The Court awards the applicant association and the first applicant EUR 3,000 each in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

189. The applicant association claimed EUR 5,520 and the first applicant claimed EUR 4,680 for the costs and expenses incurred before the domestic courts and the Court.

190. The Government contested those claims.

191. 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 were 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 the full sums claimed by the applicant association and the first applicant, covering costs under all heads, plus any tax that may be chargeable to the applicants.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the applications admissible;

3. *Holds* that there has been a violation of Article 11 of the Convention in respect of the applicant association and the first applicant;

4. *Holds* that there has been no violation of Article 11 of the Convention, interpreted in the light of Article 10, in respect of the second, third and fourth applicants in relation to the administrative-offence proceedings against them;

5. *Holds*
   (a) that the respondent State is to pay, 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 3,000 (three thousand euros) each to the applicant association and the first applicant, plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 5,520 (five thousand five hundred twenty euros) to the applicant association and EUR 4,680 (four thousand six hundred eighty euros) to the first applicant, plus any tax that may be chargeable to them, 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;

6. *Dismisses* the remainder of the claims for just satisfaction of the applicant association and of the first applicant.

Done in English, and notified in writing on 7 July 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti Registrar	Arnfinn Bårdsen President

APPENDIX

List of cases:

No.	Application no.	Case name	Lodged on	Applicant Year of Birth/Year of Registration Place of Residence/Head office Nationality/Country of Registration	Represented by
1.	32272/21	Rainbow Mission Foundation v. Hungary	15/06/2021	**RAINBOW MISSION FOUNDATION** 2001 Budapest Hungary	Tamás FAZEKAS
2.	50723/21	Jámbor v. Hungary	30/09/2021	**Sándor JÁMBOR** 1967 Gyula Hungarian	Tamás FAZEKAS
3.	28709/22	Hadházy v. Hungary	01/06/2022	**Ákos Ányos HADHÁZY** 1974 Szekszárd Hungarian	Evelyn FRANK
4.	28707/22	Szél v. Hungary	01/06/2022	**Bernadett SZÉL** 1977 Budakeszi Hungarian	Evelyn FRANK
5.	30238/22	Gazda v. Hungary	03/06/2022	**Gergely István GAZDA** 1977 Budapest Hungarian	Tivadar HÜTTL