

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

SECOND SECTION

CASE OF HÁTTÉR TÁRSASÁG AND AMNESTY INTERNATIONAL MAGYARORSZÁG v. HUNGARY

(Application no. 43901/22)

JUDGMENT

Art 10 • Freedom of expression • Freedom to impart information and ideas • Insufficiently foreseeable legal basis for fines imposed by the National Election Commission on the applicant organisations for calling on voters to cast invalid ballots in a national referendum • Findings in *Magyar Kétfarkú Kutya Párt v. Hungary* [GC] applied, with particular regard to applicant organisations' role as "public watchdogs" • No statutory provision in domestic law restricting or prohibiting the casting of an invalid vote or calling on others to do so • Domestic legal framework not ruling out any arbitrariness in its application • Interference not "prescribed by law"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

3 November 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Háttér Társaság and Amnesty International Magyarország 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 application (no. 43901/22) against Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Hungarian organisations, Háttér Társaság ("the first applicant organisation") and Amnesty International Hungary ("the second applicant organisation) (collectively "the applicant organisations"), on 22 August 2022;

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

the observations submitted by the respondent Government and the observations in reply submitted by the applicant organisations;

the comments submitted by the Helsinki Foundation for Human Rights, which was granted leave to intervene by the President of the Section;

Having deliberated in private on 6 October 2026,

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

INTRODUCTION

1. The applicant organisations complain of a violation of their right to freedom of expression under Article 10 of the Convention and a violation of their right to a fair trial under Article 6 of the Convention arising from a decision of the National Election Commission (hereinafter, "the NEC") imposing fines on them for calling on voters to cast invalid ballots in a national referendum.

THE FACTS

2. The applicant organisations are based in Budapest. They were represented by Mr Tordai, a lawyer practising in Budapest.

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

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

I. BACKGROUND OF THE CASE

5. In July 2021 the Hungarian Government organised a referendum, the stated aim of which was the protection of children's best interests. They submitted the following questions to the NEC with a view to their being put to the people in the referendum: 1) "Do you agree with the idea of workshops presenting different sexual orientations being held for underage children in public education institutions, without the consent of their parents?" 2) "Do you agree with the promotion of gender reassignment surgeries to underage children?" 3) "Do you agree with the unrestricted exposure of underage children to sexually explicit media content that may influence their development?" 4) "Do you agree with the broadcasting of media content showing gender reassignment?" 5) "Do you agree with gender reassignment surgery being made accessible to underage children?"

6. Following legal challenges, the President of the Republic announced that the referendum would be held on 3 April 2022 ("the 2022 Referendum") and that it would include only the first four of the above-mentioned five questions.

7. The applicant organisations, together with twelve other civil-society organisations, initiated a campaign encouraging voters to cast invalid ballots because they considered that the questions included in the referendum were misleading and promoted homophobic and transphobic policies.

8. The referendum was held on 3 April 2022, on the same day as a general election. Approximately 1,700,000 voters casted an invalid ballot. The invalid votes constituted about 30% of the ballots cast. The results of the referendum were therefore invalid with respect to all four questions as the majority of all registered voters did not cast a valid vote.

II. PROCEEDINGS AGAINST THE APPLICANT ORGANISATIONS

A. Decisions of the NEC

9. Following a complaint by a third party, the NEC found that the first applicant organisation, by publishing on its Facebook page posts calling on voters to cast an invalid ballot, had infringed the "principle of exercise of rights in accordance with their purpose" (*rendeltetésszerű joggyakorlás*) laid down in section 2(1)(e) of Act no. XXXVI of 2013 on Electoral Procedure (hereinafter, "the EPA", see paragraph 24 below). In a decision of 8 April 2022 (no. 324/2022) the NEC ordered the first applicant organisation to pay a fine of 3,000,000 Hungarian forints (HUF – approximately 7,400 euros (EUR)). The NEC explained that voters had the right to cast invalid ballots, but that a campaign encouraging voters to do so was not compatible with the purposes of the referendum. It continued that the first applicant organisation's campaign activity had not been aimed at encouraging

people to express their will but rather at obstructing the purpose of the referendum, which was to allow the people to express their will as legislators.

10. On the same day, also following a complaint by a third party, the NEC issued decision no. 328/2022 finding that the applicant organisations had operated the website ervenytelenul.hu (meaning "invalid"), which had contained a call on voters to "Cast an invalid vote in response to an invalid question". The website had advised voters how to mark their ballots at the referendum such that they were invalid. For the same reasons as in decision no. 324/2022, the NEC found that the applicant organisations' campaign activity had infringed section 2(1)(e) of the EPA and the "principle of the exercise of rights in accordance with their purpose". The NEC did not find it necessary to impose a fine on the applicant organisations, as the campaign period had terminated.

B. Decisions of the *Kúria*

11. The first applicant organisation sought judicial review of decision no. 342/2022 (see paragraph 9 above) before the *Kúria.* It pointed out that a referendum was a direct manifestation of popular sovereignty; consequently, the referendum campaigning period that preceded referendums served as a crucial forum for the discussion of public affairs. Encouraging voters to adopt a certain conduct in respect of a referendum fell within the most highly protected aspect of the right to freedom of expression, as recognised in Article IX § 1 of the Fundamental Law. The purpose of referendum campaigning was to influence voters regarding whether to participate in a referendum and how to vote. In the view of the first applicant organisation, encouraging voters to cast an invalid vote, which was their lawful choice, was not contrary to the purpose of the referendum campaigning period. Thus, its own conduct of encouraging the casting of invalid votes had not violated the purpose of the referendum campaigning period but remained strictly within its scope. The first applicant organisation argued that the contested NEC decision imposing a fine for the infringement of the principle of exercise of rights in accordance with their purpose was not in accordance with section 2(1)(e) of the EPA.

12. In its decision no. Kvk.IV.39.419/2022/4 of 13 April 2022 the *Kúria* rejected the first applicant organisation's claim for judicial review without an examination of the merits. It held that although the first applicant organisation had formally cited a fundamental principle set out in the EPA, it had failed to demonstrate the specific grounds for its contention that the NEC decision did not conform to that provision. It had not explained why section 2(1)(e) of the EPA could not be interpreted in the way the NEC had done. Furthermore, although the first applicant organisation had stated that the NEC decision had disregarded the fundamental rights aspect of the case, it had failed to lay out the precise interests, rights or constitutional values which it claimed the NEC

had failed to balance, or to explain what it thought the outcome of such a balancing exercise should have been.

13. The applicant organisations also sought judicial review of the NEC's decision no. 328/2022 (see paragraph 10 above), including essentially the same reasoning as had been presented in the claim for judicial review lodged by the first applicant organisation (see paragraph 11 above). In addition, the applicant organisations submitted that the restriction of their campaign activity could only have been justified if there had been a specific statutory basis for doing so and if the restriction had been necessary and proportionate. However, no specific statutory provision prohibited encouraging the casting of an invalid vote, nor was such a prohibition strictly necessary to ensure the exercise of another fundamental right or to protect a constitutional value; consequently, section 2(1)(e) of the EPA could be interpreted in a manner consistent with the Fundamental Law that would not render campaign activity encouraging the casting of an invalid vote unlawful.

14. In decision no. Kvk.IV.39.420/2022/4 of 13 April 2022 the *Kúria* dismissed the claim for judicial review, on the same grounds as in decision no. Kvk.IV.39.419/2022/4 (see paragraph 12 above).

C. Decisions of the Constitutional Court

15. The applicant organisations each lodged constitutional complaints, arguing that the *Kúria*'s decisions had infringed their right to freedom of expression, as protected by Article IX of the Fundamental Law, and their right to a fair trial, as protected by Article XXVIII of the Fundamental Law. They submitted that the *Kúria* had failed to adjudicate the merits of their claims and had not addressed their arguments concerning their campaign promoting the casting of invalid ballots, thereby disregarding the fundamental-rights element of their claim. They reiterated that the NEC's decision restricting their right to freedom of expression had no legal basis and had been disproportionate.

16. The Constitutional Court rejected the complaints on 22 April 2022 (decisions nos. 3216/2022 (V.11)AB and 3217/2022 (V.11)AB) on the same grounds. As regards the complaint concerning the alleged infringement of the right to a fair trial, the Constitutional Court held that the complaints did not raise a constitutional issue but challenged the legality of the *Kúria*'s decision. The Constitutional Court dismissed the applicant organisations' argument that the *Kúria* had reached different conclusions in cases similar to theirs, reasoning that the *Kúria* was bound by the content of the claim for judicial review and finding that no information had been submitted to substantiate the contention that the *Kúria* had ruled differently on claims that were identical in terms of form and substance. As regards the alleged violation of the right to freedom of expression, the Constitutional Court reasoned in essence that the legality of the NEC's decision had not been examined by the *Kúria* for

procedural reasons, and that an examination by the *Kúria* was a precondition for a constitutional review.

III. OTHER CASES BEFORE THE DOMESTIC AUTHORITIES

17. On 8 April 2022 the NEC issued three other decisions.

18. In decision no. 325/2022 the NEC fined the second applicant organisation HUF 3,000,000 (approximately EUR 7,400) for publishing Facebook posts calling on voters to cast invalid ballots, in breach of section 2(1)(e) of the EPA.

19. Following a claim for judicial review lodged by the second applicant organisation, the *Kúria* overturned the NEC's decision (decision no. Kvk.V.39.421/2022/5) on 15 April 2022, holding that campaign activities formed part of the freedom to express opinions on public affairs. They could only be restricted to in order to give effect to another fundamental right or to protect a constitutional value, and even then only to the extent strictly necessary, in proportion to the intended objective and while respecting the essential content of the fundamental right (see paragraph 25 below).

20. In decision no. 327/2022 the NEC fined the applicant organisations and fourteen other civil-society organisations HUF 176,400 (approximately EUR 430) each for publishing on the website of the second applicant organisation a political announcement which the NEC considered to be in breach of the principle of exercise of rights in accordance with their purpose.

21. The civil-society organisations lodged a claim for judicial review of the decision with the *Kúria.* On 15 April 2022 by decision no. Kvk.V.39.422/2022/3 the *Kúria* overturned the NEC's decision, reasoning that in the event of a conflict between the fundamental principle that rights had to be exercised in good faith and in accordance with their purpose – as set forth in section 2(1)(e) of the EPA – and the fundamental right of voters to freedom of expression, the latter could not be restricted without a constitutional basis and a statutory mandate. The *Kúria* held that the claimants had taken a position on a matter of public interest regarding the casting of invalid votes in the referendum and had exercised their fundamental right to freedom of expression; that right could not be lawfully restricted on the grounds cited by the NEC (see paragraph 26 below).

22. In decision no. 329/2020 the NEC held that a civil-society organisation, the Hungarian Civil Liberties Union, had breached section 2(1)(e) of the EPA by publishing on its website a call to "cast an invalid ballot in the Government's discriminatory referendum!". The NEC did not find it necessary to impose a fine on the organisation, as the campaign period had ended.

23. In decision no. Kvk.VI.39.423/2022/6 of 15 April 2022, the *Kúria* overturned the NEC's decision. The *Kúria* held that the exercise of the right to freedom of expression – guaranteed by the Fundamental Law – by the Civil

Liberties Union during its campaign activity could not be classified as a violation of the fundamental principle set forth in section 2(1)(e) of the EPA in the absence of an explicit statutory restriction established with detailed reasoning by the NEC (see paragraph 27 below).

RELEVANT LEGAL FRAMEWORK AND PRACTICE

24. The relevant domestic law is set out in the case of *Magyar Kétfarkú Kutya Párt v. Hungary* ([GC], no. 201/17, §§ 31-32, 20 January 2020). Additional relevant provisions of the EPA read as follow:

Judicial review
Section 222

"(1) A natural person, a legal entity or an organisation without legal personality affected by the case may submit a claim for judicial review against a second-instance decision of an election commission or a decision of the [NEC].

..."

Section 229

"(1) The *Kúria* shall adjudicate such claims for judicial review.

(2) The court shall decide on claims for judicial review in non-contentious proceedings, in a panel composed of five professional judges.

..."

Section 233

"(1) A constitutional complaint against a judicial decision – given pursuant to this Act in the context of a legal remedy concerning a decision of an election body – may be lodged with the Constitutional Court within three days of the handing down of the contested decision.

(2) The Constitutional Court shall decide on a constitutional complaint against a judicial decision – given pursuant to this Act in the context of a legal remedy concerning a decision of an election body – within five days of its receipt.

..."

25. Decision no. Kvk.V.39.421/2022/5 of the *Kúria* (see paragraph 19 above) contains the following relevant passages:

"...

[53] In its decisions nos. 3313/2019 (XI. 21.) and 3279/2019 (XI. 5.), the Constitutional Court established that, pursuant to Article I § 3 of the Fundamental Law, the right to freedom of expression may only be restricted by an Act of Parliament; therefore, in the absence of an express statutory provision, the necessity of restricting a fundamental right cannot be established by judicial interpretation.

[54] Given that there is no statutory provision restricting or prohibiting the casting of an invalid vote or calling [on people] to do so – and considering that an invalid vote qualifies as a vote – the claimant's campaign activity did not effectively infringe upon

the essence of the referendum as defined by the Fundamental Law, nor did it affect the voting autonomy of citizens.

[55] Accordingly, in the view of the *Kúria*, the claimant's freedom of speech – which enjoys a heightened level of protection during a campaign – cannot lawfully be restricted by invoking the purpose of the referendum.

[56] The *Kúria* has found that the [NEC] failed to recognise that the [case] involved a potential restriction of the claimant's fundamental right to freedom of expression and thus failed to take into account that such a fundamental right may only be restricted in accordance with Article I § 3 of the Fundamental Law. Instead, it erroneously proceeded from the premise that the stage of the referendum process concerning the validation of questions requires examining whether an unequivocal answer can be given to the questions and whether the ballot paper excludes any third response option alongside "yes" and "no". The objection concerned the referendum campaign rather than the validation stage; consequently, the criteria for its assessment necessarily differ. The decision of the [NEC] – challenged via a claim for [judicial] review – has resulted in the restriction of one of the claimant's highly protected fundamental rights without constitutional grounds or a legal basis.

...

[58] The *Kúria* maintains its interpretation set forth in decision no. Kvk.IV.37.359/2014/2, according to which a violation of the requirement to exercise rights in accordance with their purpose does not follow from a mere finding of a legal infringement; there must be an obvious intent to exploit the substance of the legal institution in an unlawful manner under the guise of formal compliance with the law. According to the *Kúria*['s case-law], although a call to cast an invalid vote may run counter to the constitutional purpose of the referendum as a legal institution and to the spirit of the Initiating Referendums, European Citizens' Initiative and Referendum Procedure Act and the [EPA], thereby potentially raising the issue of an exercise of rights contrary to their intended purpose, freedom of speech warrants special protection, even in the context of a referendum initiated by the Government, and its restriction would have been permissible only on constitutional and lawful grounds. Through their campaign activity, the claimant was exercising their fundamental right to freedom of expression, which cannot be lawfully restricted based on the grounds cited by the [NEC]. In the posts to which objection was raised, the claimant did not act abusively but rather – exercising its constitutional right – encouraged visitors to their social media page to cast invalid votes as an expression of their opinion on a matter of public interest; thus, they did not violate the fundamental principle of referendum procedure requiring the exercise of rights in good faith and in accordance with their intended purpose, as stipulated in section 2(1)(e) of the [EPA], as applicable pursuant to section 1(1) of the Initiating Referenda, European Citizens' Initiative and Referendum Procedure Act.

..."

26. Decision no. Kvk.V.39.422/2022/3 of the *Kúria* (see paragraph 21 above) contains the following relevant passages:

"...

[30] ... Under Article XXIII § 7 of the Fundamental Law, participation in a referendum is not an obligation for voters but a fundamental right; voters may exercise that right by abstaining from the referendum, or by participating and casting either a valid or an invalid vote. Casting an invalid vote does not constitute a violation of law; rather, it expresses the voter's intent to refrain from making a substantive decision

regarding the questions posed. The expression of opinion by the claimants participating in the referendum campaign – and their influencing of how voters exercise their right to participate in the referendum (in the manner described in the statement) – does not infringe upon essence of the referendum as a constitutional value under the Fundamental Law, nor does it impair the voting autonomy of the electorate, given that voters have a lawful means of exercising their referendum rights through abstention or by casting an invalid vote.

...

[32] ... The practice of the Constitutional Court is also consistent in finding that public communications (when the information shared is related to public life) are subject to enhanced fundamental-law protection. Decision 7/2014. (III. 7.) AB pointed out: 'Freedom of speech requires special protection when it affects public affairs and the exercise of public power by persons performing public duties or taking part in public life. [Where] persons participating in the exercise of public power [are concerned], a restriction of freedom of expression would be justified in a much narrower range of cases under the constitutional requirements arising from the democratic rule of law.' ...

...

[34] Regarding the requirement of exercising rights in accordance with their purpose, the [NEC] decision referred to the consistent judicial practice embodied in the *Kúria*'s decision no. Kvk.IV.37.359/2014/2. According to this practice, the requirement to exercise rights in accordance with their purpose – derived from civil law regulations prohibiting the abuse of rights – permeates the entire legal system. It implies that those entitled to exercise legal rights must do so in a manner consistent with the specific purpose and substance of those rights. Statutory protection and recognition are accorded only to the exercise of a right where its true substance is discernible beyond mere formal compliance with the rules governing that right. A violation of the requirement to exercise rights in accordance with their purpose goes beyond a mere finding of illegality; it must be an obvious intent to exploit the substance of the legal institution under the guise of formal compliance. In the present case, the *Kúria* has held that while a call to cast an invalid vote might conflict with the constitutional purpose of the referendum and the spirit of the relevant Acts (the Initiating Referenda, European Citizens' Initiative and Referendum Procedure Act and the [EPA]), thereby potentially raising the issue of exercising a right contrary to its intended purpose, freedom of speech – specifically the expression of opinion on matters of public interest, including in the context of a referendum initiated by the Government – merits special protection; any restriction thereof is permissible only on the basis of the constitutional and legal grounds.

...

[37] ... Undoubtedly, the will of the people manifested through a referendum may be expressed not only by casting "yes" or "no" votes but also by a voter abstaining or – albeit with a different effect – casting an invalid vote. As the claimants rightly pointed out, the latter – as an expression of political opinion – constitutes a position that voters may adopt and articulate, regardless of the fact that its effect amounts to an exercise of rights contrary to their intended purpose. Indeed, there is no provision of law prohibiting a campaign message advocating the casting of an invalid vote. When assessing any restriction on political opinion, due regard must always be paid to the right to freedom of expression and the heightened constitutional protection afforded to political communication.

[38] The claimants correctly derived the primacy of freedom of expression from Article I § 3 of the Fundamental Law; freedom of expression holds a distinguished place among constitutional fundamental rights, and it cannot be curtailed simply by classifying a call to cast an invalid vote as an exercise of rights contrary to their intended purpose.

[39] Consequently, based on the arguments set forth in the claim for judicial review, no violation of section 2(1)(e) of the [EPA] could be established.

..."

27. Decision no. Kvk.VI.39.423/2022/6 of the *Kúria* (see paragraph 23 above) contains the following relevant passages:

"...

[49] Constitutional Court decision no. 3313/2019 (XI. 21.) AB clearly stated that campaign activities not prohibited by the [EPA] are lawful, and that the fundamental principles of the [EPA] must also prevail during the campaign period. The aim of activities carried out during an election campaign is to influence, or attempt to influence, the will of the electorate. When assessing restrictions on campaign activities, due regard must always be given to the right to freedom of expression and the heightened constitutional protection afforded to political communication.

[50] The decision of the [NEC] does not state that the fundamental principle set out in section 2(1)(e) of the [EPA], or the provisions concerning election campaigns, restrict in any manner or to any extent the fundamental rights of participation in a national referendum and freedom of expression. In the absence of a statutory restriction – established and justified in detail by the NEC with reference to the provisions of the Fundamental Law – the expression of an opinion by the claimant during its campaign activity (a right guaranteed by the Fundamental Law) cannot be objected to.

[51] While the claimant's campaign activity encouraged people to cast invalid votes, it did not affect the voters' participation in the referendum or their voting autonomy. Voters remained free to decide, if they choose to exercise their right to participate, whether to vote 'yes' or 'no', or to deliberately cast an invalid vote.

[52] The [NEC] was required to evaluate the claimant's campaign activity, not the result that emerged as a consequence of that activity. It had to assess the campaign activity independently, rather than in the light of the result.

[53] In decisions nos. Kvk.III.37.107/2008/2, Kvk.IV.37.468/2006/2 and KvkIII.37.211/2006/3, the Supreme Court, in accordance with Act C of 1997 on Electoral Procedure, established that a violation of the fundamental principle of exercising rights in good faith and for their intended purpose occurs when election participants exercise their election-related rights in a manner intended to mislead voters, by concealing or distorting facts, thereby diminishing the electoral prospects of their political opponents.

[54] In decisions nos. Kvk.IV.37.359/2014/2 and Kvk.I.37.394/2014/2, the *Kúria,* addressing the principle of exercising rights in good faith and in accordance with their purpose, found that the requirement to exercise rights for their intended purpose is one that permeates the entire legal system, including the rules of the [EPA]; this requirement derives from civil law regulations prohibiting the abuse of rights, dictating that the subjects of legal institutions may utilise them only in a manner consistent with their specific purpose and substance. Legal protection and recognition are only afforded to the exercise of a right when it reflects the true substance [and purpose of that right],

beyond the formal requirements of the entitlement. A violation of the principle of exercising rights in accordance with their purpose goes beyond the mere establishment of an infringement: it must clearly manifest an intent to exploit the substance of a legal institution while ostensibly complying with the law.

[55] The claimant's campaign activity, as established by the [NEC], could not have infringed upon freedom of expression, given the absence of statutory restrictions on the relevant Fundamental Law provisions; nor did it involve any intentional violation aimed at curtailing the will of the electorate or misleading voters; consequently, no violation of the fundamental principles of good faith and the exercise of rights in accordance with their purpose could be established.

..."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

28. The applicant organisations complained that the proceedings before the domestic courts had been unfair and that the same facts and same legal issues had given rise to differing legal assessments by the *Kúria*, in breach of the principle of legal certainty. The applicant organisations relied on Article 6 of the Convention, the relevant parts of which read as follows:

"1. In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ..."

A. The parties' submissions

29. The Government submitted that the domestic courts had not reached different conclusions in identical situations. In their view the applicant organisations were not in the same situation as the claimants in the cases referred to by them (see paragraphs 19, 21, 23, and 25-27 above); the claim for judicial review lodged by the applicant organisations had not been examined on the merits as they had failed to comply with formal requirements, unlike the claimants in the other cases.

30. The applicant organisations pointed out that, within a few days, different chambers of the *Kúria* had handed down different decisions in cases arising from the same factual basis and involving the same legal issues (see paragraphs 25-27 above). They maintained that the arguments presented by them to the *Kúria* had been identical to those submitted in the similar cases which had been examined on the merits.

31. Furthermore, they had had no access to a procedure ensuring legal uniformity in the face of the divergent case-law of the *Kúria*, as only the court itself could initiate a procedure to consolidate its case-law.

B. The Court's assessment

32. The Court observes that the parties disagree as to whether the cases before the domestic courts were identical (see paragraphs 29 and 30 above). It reiterates that giving two disputes different treatment cannot be considered to give rise to conflicting case-law when this is justified by a difference in the factual situations at issue (see *Erol Uçar v. Turkey* (dec.), no. 12960/05, 29 September 2009). In the present case, it appears from the evidence before the Court that the difference in treatment of which the applicant organisations complained could not have arisen from differences in the factual situations examined by the different chambers of the *Kúria*, which were essentially the same, and that the question is thus whether the applicant organisations' claims for judicial review by the *Kúria* were identical to those lodged in the three other cases referred to by them.

33. However, the Court does not find it necessary to examine this issue as the applicant organisations' complaint is in any event inadmissible for the following reasons.

34. The relevant principles in respect of inconsistent practice of domestic courts are set out, for example, in the cases of *Nejdet Şahin and Perihan Şahin v. Turkey* ([GC], no. 13279/05, §§ 49-58, 20 October 2011), and *Lupeni Greek Catholic Parish and Others v. Romania* ([GC], no. 76943/11, § 116, 29 November 2016). In particular, the Court has found that only "profound and long-standing differences" in the practice of the highest domestic court may be contrary to the principle of legal certainty (see *Nejdet Şahin and Perihan Şahin*, cited above, § 53).

35. The Court observes that the present application concerns alleged disparities existing in the case-law of the highest domestic court, namely the decisions taken by the *Kúria* (see, *mutatis mutandis*, *Beian v. Romania (no. 1)*, no. 30658/05, § 38, ECHR 2007-V (extracts), and *Ferreira Santos Pardal v. Portugal*, no. 30123/10, § 45, 30 July 2015).

36. The Court notes that the applicant organisations pointed to three other decisions given by the *Kúria* concerning the alleged infringement of the principle of "exercise of rights in accordance with their purpose" set out in section 2(1)(e) of the EPA in the context of the campaign calling on voters to cast invalid ballots in the 2022 Referendum (see paragraphs 25-27 above). It further notes that the three other cases brought before the *Kúria* on which the applicant organisations rely were issued two days after the decisions complained of (see paragraphs 12 and 14 above). In other words, the relevant decisions of the *Kúria* were delivered within a period of three days (13-15 April 2022). The Court considers that this did not amount to "long-standing differences" which would be contrary to the principle of legal certainty.

37. Accordingly, the applicant organisations' complaint under Article 6 is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

38. The applicant organisations complained that the decisions penalising their campaign activities had violated their right to freedom of expression as provided for by Article 10 of the Convention. That Article reads as follows:

> "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."

A. Admissibility

1. The parties' submissions

39. The Government objected that the applicant organisations had failed to exhaust domestic remedies as required by Article 35 § 1 of the Convention in respect of their complaint under Article 10. The Government submitted that although the applicant organisations had lodged a claim for judicial review of the NEC's decisions, and thus formally exhausted that option, they had not substantiated the alleged unlawfulness of the NEC's decisions but merely referred to the alleged breach of their fundamental rights. Thus, the *Kúria* had been unable to consider their request on the merits. In the absence of a decision on the merits of their case by the *Kúria,* a precondition of admissibility for lodging a complaint before the Constitutional Court under domestic law, their constitutional complaint had been bound to fail as well.

40. The applicant organisations contested the Government's argument. They maintained that they had raised in detail the reasons why they had considered the NEC's decisions unlawful and in violation of their fundamental rights in their claim lodged with the *Kúria.*

2. The Court's assessment

41. The general principles concerning the exhaustion of domestic remedies have been summarised in the cases of *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others,

§§ 69-77, 25 March 2014), and *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* ([GC], no. 21881/20, §§ 138-44, 27 November 2023).

42. In the present case the applicant organisations complained before the Court that their right to freedom of expression had been breached on account of the NEC's decisions finding that their conduct had been in breach of the principle of "exercise of rights in accordance with their purpose" and imposing a fine on the first applicant organisation.

43. They raised that issue, specifically, in their claims for judicial review lodged with the *Kúria* seeking the setting aside of the NEC's decision. In particular, they submitted that their campaign had contributed to the forum of public affairs and had been intended to influence voters' conduct. They referred to the lack of legal basis for the restriction and its alleged lack of proportionality (see paragraph 11 and 13 above). In these circumstances, the Court is persuaded that, in accordance with the requirements of its case-law, the applicant organisations raised the substance of their complaint under Article 10 in the proceedings before the *Kúria*. The *Kúria* nonetheless rejected their claims for judicial review as unsubstantiated (see paragraphs 12 and 14 above).

44. The Court further notes that the applicant organisations also invoked their right to freedom of expression in their constitutional complaints. They also argued that the merits of their request had not been examined by the *Kúria*, in violation of their right to a fair trial. As the applicant organisations again argued before the Constitutional Court that the NEC's decision infringing their right to freedom of expression had been without a legal basis and disproportionate (see paragraph 15 above), the Court finds that they raised the substance of their complaint under Article 10 throughout the proceedings before the domestic courts.

45. The Court finds that the applicant organisations thus provided the domestic courts with the opportunity to put right the alleged violation and concludes that the Government's objection of non-exhaustion of domestic remedies must be dismissed.

46. The Court further notes that this complaint is neither manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor inadmissible on any other grounds listed in Article 35. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant organisations

47. The applicant organisations submitted that their campaign encouraging voters to cast invalid votes was clearly protected by Article 10

of the Convention. Imposing a fine on such activity meant punishing the exercise of their freedom of expression.

48. They pointed out that neither the EPA nor any other law prohibited encouraging voters to cast an invalid ballot in a referendum. Therefore, the interference with their rights had not been prescribed by law. Nor had it been foreseeable for them that the NEC would interpret the principle of exercise of rights in good faith and in accordance with their purpose, contained in the EPA, as such prohibition. Furthermore, the restriction had not corresponded to any of the legitimate aims set out in Article 10 § 2 of the Convention. The applicant organisations endorsed the arguments of the third-party intervener (see paragraphs 50-52 below) that sanctions against those who campaign for invalid votes to be cast in a referendum created a coercive and threatening atmosphere, eliminated dissident opinions and undermined voters' right not to participate in referendums. Such an environment also created fear and discouraged civic engagement.

(b) The Government

49. The Government considered that the applicant organisations' right to freedom of expression had not been infringed.

(c) The third-party intervener

50. The Helsinki Foundation for Human Rights ("the HFHR") considered that the present case concerned the instrumental use of referendums by the authorities and the limits of freedom of expression of NGOs. They submitted that referendums were a well-established form of direct democracy in most European States and that they enabled citizens to express their views on issues of fundamental importance to the State. They referred to the Revised Code of Good Practice on Referendums of the European Commission for Democracy through Law (Venice Commission) (20 June 2022, CDL-AD(2022)015), which states, among other things, that in order for a referendum to fulfil its functions the question put to voters must be clear and comprehensible, unbiased, not suggestive of any particular answer, and must not be misleading. Furthermore, it was not appropriate to hold elections and referendums on the same day.

51. If referendums were conducted in violation of those principles, they risked being transformed into a tool used by those in power to pursue their own political objectives and legitimise their actions. In such situations referendums did not aim at the genuine resolution of political questions but at the deepening of social polarisation. The HFHR gave examples including the referendum held in Hungary in 2016 on migration, the referendum held in Türkiye in 2017 transforming the country's system of government and the referendum held in Poland in 2023. In the latter, the HFHR, together with

other civil-society organisations, had conducted a campaign urging voters to boycott the referendum.

52. The HFHR argued that in situations where referendums were instrumentalised, engaging in a campaign opposing the authorities' proposal was ineffective owing to the uneven playing field, and could even contribute to legitimising the referendum in the eyes of the public. By contrast, boycotting the referendum constituted an expression of citizens' stance on an important public issue and sent the clear signal that the process was unfair and that participation would be inappropriate.

2. The Court's assessment

(a) Whether there has been an interference

53. The Court observes that the applicant organisations contended that they had been penalised for carrying out campaigning activity. The Court notes that the domestic authorities also considered the applicant organisations' conduct to be campaign activity (see paragraphs 9 and 10 above). The Court sees no ground to hold otherwise and accepts that the applicant organisations' campaign activity involved the exercise of their right to freedom of expression. The authorities' reaction to their exercise of the organisations' rights under Article 10 of the Convention consisted in the declaration that their activity had infringed section 2(1)(e) of the EPA and the "principle of the exercise of rights in accordance with their purpose" and in the imposition of a fine of approximately EUR 7,400 on the first applicant organisation. This amounted to interference with those rights.

54. Such interference would be in breach of the Convention unless it was "prescribed by law", pursued one or more of the legitimate aims referred to in the second paragraph of Article 10 and was "necessary in a democratic society" (see *Danileţ v. Romania* [GC], no. 16915/21, § 118, 15 December 2025).

(b) Whether the interference was lawful

55. The general principles concerning the lawfulness of an interference with Article 10 of the Convention have recently been summarised in the case of *Danileţ* (cited above, §§ 119-25). The Court has also emphasised the special significance of the electoral context, given the importance of the integrity of the voting process in preserving the confidence of the electorate in democratic institutions. Accordingly, the Court has found wide and unpredictable interpretations of legal provisions governing elections to be either unforeseeable in their effects or indeed arbitrary and therefore incompatible with Article 3 of Protocol No. 1 to the Convention (see, also in the context of a referendum, *Magyar Kétfarkú Kutya Párt v. Hungary* [GC], no. 201/17, § 99, 20 January 2020, with further references).

56. In the present case the applicant organisations argued that the legal basis for the interference with their right to freedom of expression had not been sufficiently foreseeable and, thus, that such interference had not been "prescribed by law".

57. The Court notes that in the applicant organisations' cases the NEC referred to the principle of the exercise of rights in accordance with their purpose, as laid down in section (1)(e) of the EPA, as the legal basis for the restriction of the applicant organisations' campaign activity (see paragraphs 9 and 10 above). There is no question of the above legal instruments being insufficiently accessible. The salient issue in the present case is whether the applicant organisations knew or ought to have known – if need be, after taking appropriate legal advice – that their conduct would breach the existing electoral procedure law.

58. The Court points out that in the context of the 2022 Referendum different chambers of the *Kúria* came to different conclusions when it came to assessing the NEC's reliance on section 2(1) of the EPA to restrict campaign activities calling on voters to cast invalid ballots. Chambers of the *Kúria* other than those that heard the present applicant organisations' case explained that the right to freedom of expression could only be restricted by an Act of Parliament; in the absence of an express statutory provision, such restriction could not be established through judicial interpretation. The *Kúria* reiterated that campaign activities not prohibited by the EPA were lawful and found that there was no statutory provision in Hungarian law restricting or prohibiting the casting of an invalid vote or calling on others to do so. It did not agree with the NEC's interpretation of section 2(1) of the EPA and, in particular, the *Kúria* did not consider that the claimants' conduct had been intended to curtail the will of the electorate or mislead voters. It also indicated that the NEC's interpretation of the principle of the exercise of rights in accordance with their purpose had not had regard to the claimants' fundamental right to freedom of expression. Consequently, the *Kúria* found that section 2(1) of the EPA could not serve as a basis for restricting the claimants' exercise of their right to freedom of expression in the form of campaigning for voters to cast invalid ballots (see paragraphs 25-27 above).

59. While emphasising that the interpretation and application of domestic law is primarily a matter for the national courts to resolve (see *Nejdet Şahin and Perihan Şahin*, cited above, § 49, with further references), the Court finds that the above-mentioned reasons are relevant with regard to the applicant organisations' complaint that the restriction of their right to freedom of expression was not prescribed by law.

60. Furthermore, the Grand Chamber has already examined, in the context of a national referendum, the restriction of the campaign activities of a political party by the domestic authorities relying on section 2(1) of the EPA. It found that, having regard to the particular importance of the foreseeability of the law when it comes to restricting the freedom of expression of a political

party in the context of an election or a referendum, the considerable uncertainty about the potential effects of the legal provisions applied by the domestic authorities exceeded what was acceptable under Article 10 § 2 of the Convention (see *Magyar Kétfarkú Kutya Párt*, cited above, § 116).

61. The Court sees no grounds to depart from the findings made in that case, particular regard being had to the applicant organisations' role as "public watchdogs" (see, *mutatis mutandis*, *Cangı v. Turkey*, no. 24973/15, § 35, 29 January 2019).

62. In the light of the considerations developed in paragraphs 58 and 60 above, the Court is not satisfied that the Hungarian law applicable in the present case, on the basis of which the applicant organisations' freedom to impart information and ideas was restricted, was formulated with sufficient precision, for the purposes of paragraph 2 of Article 10 of the Convention, so as to rule out any arbitrariness and enable the applicant organisations to regulate their conduct accordingly (see, *mutatis mutandis, Magyar Kétfarkú Kutya Párt*, cited above, § 117). It follows that the interference with the applicant organisations' freedom of expression was not "prescribed by law" within the meaning of Article 10 of the Convention.

63. There has therefore been a violation of Article 10 of the Convention. In the light of this finding, it is not necessary to examine separately the applicant organisations' remaining arguments under Article 10 of the Convention (see, *mutatis mutandis, Magyar Kétfarkú Kutya Párt*, cited above, § 118).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

64. 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

65. The first applicant organisation claimed 7,400 euros (EUR) in respect of pecuniary damage. This sum corresponded to the amount that it had been fined by the NEC (see paragraph 9 above). The applicant organisations also claimed EUR 5,000, each, in respect of non-pecuniary damage.

66. The Government contested those claims.

67. The Court reiterates that Article 41 empowers it to afford the injured party such satisfaction as appears to it to be appropriate (see *O'Keeffe v. Ireland* [GC], no. 35810/09, § 199, ECHR 2014 (extracts)).

68. The Court finds that the first applicant organisation suffered pecuniary loss as a result of the fine that it was ordered to pay (see paragraph 9 above).

Having regard to the link between the fine imposed in the domestic proceedings and the violation of Article 10 found in the present judgement, the Court awards the first applicant organisation the full amount claimed in respect of pecuniary damage (see, *mutatis mutandis*, *Oberschlick v. Austria (No. 2)*, 1 July 1997, § 39, *Reports of Judgments and Decisions* 1997-IV).

69. As regards non-pecuniary damage, in the light of the circumstances of the present case, the Court takes the view that the applicant organisations suffered non-pecuniary damage which cannot be adequately compensated by the finding of a violation of the Convention alone. Having regard to all the facts before it and making its assessment on an equitable basis pursuant to Article 41 of the Convention, the Court considers it reasonable to award the sum of EUR 3,000 to each of the applicant organisations in respect of non-pecuniary damage.

B. Costs and expenses

70. The applicant organisations each claimed EUR 1,000 in respect of the costs and expenses incurred before the Court. Those amounts correspond to ten hours of legal work, charged by their lawyer at an hourly rate of EUR 100.

71. 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, that is, EUR 1,000 to each of the applicant organisations.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning Article 10 admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 10 of the Convention;

3. *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 7,400 (seven thousand four hundred euros) to the first applicant organisation, plus any tax that may be chargeable, in respect of pecuniary damage;

(ii) EUR 3,000 (three thousand euros) to each of the applicant organisations, plus any tax that may be chargeable, in respect of non-pecuniary damage;

(iii) EUR 1,000 (one thousand euros) to each of the applicant organisations, 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;

4. *Dismisses* the remainder of the applicant organisations' claim for just satisfaction.

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

Andrea Tamietti
Registrar

Arnfinn Bårdsen
President