



Measures taken by State to curb nuisance caused to resident by heavy road traffic were insufficient

In today's Chamber judgment in the case [Deés v. Hungary](#) (application no 2345/06), which is not final¹, the European Court of Human Rights held, unanimously, that there had been a:

Violation of Article 8 (right to respect for private life and home) and Article 6 § 1 (right to a fair trial within a reasonable time) of the European Convention on Human Rights

The case concerned nuisance (noise, vibrations, pollution, smell) caused to a resident by heavy traffic in his street, situated near a motorway operating a toll

Principal facts

The applicant, György Deés, is a Hungarian national who was born in 1950 and lives in Alsónémedi (Hungary).

Mr Deés submitted that, in order to avoid a toll introduced in early 1997 on a privatised motorway outside Alsónémedi, many trucks chose alternative routes including the street (on a section of a national road) in which he lived.

On 23 February 1999 he brought proceedings for compensation against the Pest County State Public Road Maintenance Company. He claimed that, due to the increased freight traffic in his street, the walls of his house had cracked. Ultimately, on 15 November 2005 his claims were dismissed on appeal. The domestic courts found in particular that, although the noise – measured by an expert on two occasions in May 2003 – exceeded the statutory limit of 60 dB(A) by 15% and 12%, the vibration or noise caused by the traffic was not substantial enough to cause damage to Mr Deés' house.

In the meantime, the authorities made efforts from 1998 to slow down and reorganise the traffic in the area: notably they constructed three bypass roads, introduced a speed limit of 40 km/hr at night and provided two nearby intersections with traffic lights. In 2001 road signs prohibiting the access of vehicles over 6 tons and re-orientating traffic were put up.

¹ Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a judgment's delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Under Article 28 of the Convention, judgments delivered by a Committee are final.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for home) of the Convention, Mr Deés complained that, because of the noise, pollution and smell caused by the heavy traffic in his street, his home had become almost uninhabitable. He further complained under Article 6 (right to a fair hearing within a reasonable time) that the length of the court proceedings he had brought on the matter had been excessive.

The application was lodged with the European Court of Human Rights on 6 January 2006.

Judgment was given by a Chamber of seven, composed as follows:

Françoise **Tulkens** (Belgium), *President*,
Danutė **Jočienė** (Lithuania),
Dragoljub **Popović** (Serbia),
András **Sajó** (Hungary),
Nona **Tsotsoria** (Georgia),
Kristina **Pardalos** (San Marino),
Guido **Raimondi** (Italy), *Judges*,

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

Article 8

The Court recalled that the Convention protected an individual's right not only to the actual physical area of his home (for example against such breaches as unauthorised entry) but also to the quiet enjoyment, within reasonable limits, of that area from interferences such as noise, emissions or smells.

In particular, it acknowledged the complexity of the authorities' task in Mr Deés' case in handling infrastructure issues – involving measures which required considerable time and resources – and in striking a balance between road users' and residents' interests. However, despite the efforts to limit and reorganise the traffic, the measures had consistently proved to be insufficient, resulting in Mr Deés having been exposed to excessive noise over a substantial period of time (and at least until May 2003 when the expert had assessed the level of noise and found it in excess of the statutory limit).

In conclusion, at the relevant time a direct and serious nuisance had affected the street in which Mr Deés lived and had prevented him from enjoying his home and private life, a right which the State had an obligation to guarantee. There had therefore been a violation of Article 8.

Article 6 § 1

The Court found that the length of the proceedings, having lasted six years and nine months for two levels of jurisdiction, had been excessive, in violation of Article 6 § 1.

Article 41 (just satisfaction)

The Court held that Hungary was to pay the applicant 6,000 euros (EUR) in respect of non pecuniary damage.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.