



## Hanging dirty laundry around Budapest Parliament qualified as political expression rather than an assembly

In today's Chamber judgment in the case **Tatár and Fáber v. Hungary** (application nos. 26005/08 and 26160/08), which is not final<sup>1</sup>, the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 10 (freedom of expression)** of the European Convention on Human Rights.

The case concerned a complaint by József Tatár and Károly Fáber that they were prosecuted and fined for illegal assembly for hanging dirty laundry on the fence around Parliament in Budapest, in protest at what they considered the country's general political crisis.

### Principal facts

The applicants, József Tatár and Károly Fáber, are Hungarian nationals, who were born in 1967 and 1969 respectively and live in Budapest.

In what they called a political "performance", on 27 February 2007 the applicants strung up dirty clothing – symbolising "the nation's dirty laundry" – around the fence of Parliament in Budapest. A few journalists, aware of the event via the applicants' website, turned up to ask questions. The performance lasted 13 minutes and then the applicants left.

The same day the website of a daily paper published a short article on the applicants' protest, specifying that it had been prepared in secret with only a few journalists being invited and no other protesters participating.

They were subsequently prosecuted and fined 80,000 Hungarian forints (approximately 250 euros (EUR)) for illegal assembly. Ultimately, in December 2007 the Hungarian courts found that the protest had amounted to an "organised event" under section 6 of the Assembly Act – as opposed to a cultural event as argued by the applicants – and therefore they should have notified the authorities three days beforehand. The fine was considered necessary to encourage the applicants to abide by the law in the future.

### Complaint, procedure and composition of the Court

Relying in particular on Article 10 (freedom of expression), the applicants complained about having been prosecuted and fined for hanging dirty laundry on the Parliament fence in Budapest.

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<sup>1</sup> Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its 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.

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](http://www.coe.int/t/dghl/monitoring/execution)

The application was lodged with the European Court of Human Rights on 30 May 2008.

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

Françoise **Tulkens** (Belgium), *President*,  
Dragoljub **Popović** (Serbia),  
Isabelle **Berro-Lefèvre** (Monaco),  
András **Sajó** (Hungary),  
Guido **Raimondi** (Italy),  
Paulo **Pinto de Albuquerque** (Portugal),  
Helen **Keller** (Switzerland), *Judges*,

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

## Decision of the Court

### Article 10 (freedom of expression)

The Court noted that fining the applicants for their protest had amounted to an interference with their right to freedom of expression. That interference had been based on the relevant domestic law – section 6 of the Assembly Act and section 152 of the Act on Administrative Offences – and had pursued the legitimate aim of ensuring public safety, protecting the rights of others and preventing disorder.

However, the Court did not share the Government's view that the applicants' protest had qualified as an assembly. Although various definitions of "assembly" might exist in national legal systems, they were no more than a starting-point. Indeed, the Court considered that the term "assembly" had an autonomous meaning which served the interests of protecting the right to freedom of assembly (under Article 11 of the European Convention) against improper classifications in national law. Moreover, an assembly constituted a specific form of communication of ideas, where an indeterminate number of people were gathered at a place accessible to the general public whose intention of being part of the communicative process was in itself an expression of an idea and whose very presence expressed support for the idea in question.

In the applicants' case, these qualifying elements had been absent. Even though the event had been advertised on Internet, there had been no intention to recruit participants other than a few journalists. The performance had aimed at sending out a message through the media rather than the direct gathering of protestors, which in any case would have been virtually impossible to achieve in 13 minutes. Nor had it been necessary for the authorities to have prior notification in order to coordinate and facilitate the event, as nothing indicated that either public order or the rights of others had been affected.

Consequently, the Court found that the fining of the applicants had not been backed up by relevant and sufficient arguments. Even if mild, such sanctioning of what qualified as artistic and political expression could have an undesirably chilling effect on public speech. There had therefore been a violation of Article 10.

### Article 41 (just satisfaction)

The Court held that Hungary was to pay the applicants EUR 1,500 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.