



Grand Chamber hearing on Hungarian party's mobile app for showing votes in migration referendum

The European Court of Human Rights is holding a **Grand Chamber**¹ hearing today **Wednesday 21 November 2018 at 9.15 a.m.** in the case of **Magyar Kétfarkú Kutya Párt v. Hungary** (application no. 201/17)

The case concerns a political party's complaint about domestic court findings that a mobile telephone application it developed to allow voters to show and comment on invalid ballots cast during a 2016 referendum on European Union migrant relocation plans broke election rules.

After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage. A recording of the hearing will be available from 2.30 p.m. on the Court's Internet site (www.echr.coe.int).

The applicant, Magyar Kétfarkú Kutya Párt, is a political party registered in Budapest (Hungary).

In September 2016 the party developed a mobile telephone application to allow voters to show and comment on invalid ballots cast during a referendum on European Union migrant relocation plans.

The referendum, which was held on 2 October 2016, had been called by the Government and had the question, "Do you want the European Union to be entitled to order the mandatory settlement of non-Hungarian citizens in Hungary without Parliament's consent?"

In the course of the campaign several opposition parties called on voters to boycott the referendum or to cast invalid ballots that would not count in the final tally but could still be interpreted as rejecting the idea of the referendum. The party developed the app in the context of that opposition.

Voters could use the app to post anonymous photographs of ballot papers, invalid or valid, and comments on reasons for how they cast their ballots. Following a complaint by a private individual, the National Election Commission fined the party after finding that the app broke rules on fair elections, voting secrecy and the proper exercise of rights.

The *Kúria* (the supreme court) ultimately only upheld the decision on the proper exercise of rights and reduced the fine. A complaint to the Constitutional Court was deemed inadmissible.

Procedure

The application was lodged with the European Court of Human Rights on 16 December 2016.

The applicant party complains under Article 10 (right to freedom of expression) of the European Convention on Human Rights.

In its Chamber [judgment](#) of 23 January 2018, the European Court of Human Rights held, unanimously, that there had been a violation of Article 10 of the Convention. The Chamber noted in particular that the applicant party had developed the mobile telephone application precisely for the

¹ Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

purpose of allowing voters to use information and communication technologies to share opinions through anonymous photographs of invalid ballot papers. The app thus had a communicative value and so constituted expression on a matter of public interest. As the *Kúria* had emphasised, it was not possible to identify voters through the anonymously uploaded photographs and posting the photographs had not affected the fair conduct of the vote. The Chamber thus found that the restriction of the applicant party's freedom of expression had served no legitimate aim under paragraph 2 of Article 10 of the Convention.

On 28 May 2018 the Grand Chamber Panel accepted the Government's request that the case be referred to the Grand Chamber.

Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Guido Raimondi (Italy), *President*,
Angelika Nußberger (Germany),
Linos-Alexandre Sicilianos (Greece),
Robert Spano (Iceland),
Branko Lubarda (Serbia),
Ledi Bianku (Albania),
Paul Lemmens (Belgium),
Valeriu Griţco (the Republic of Moldova),
Dmitry Dedov (Russia),
Jon Fridrik Kjølbro (Denmark),
Síofra O'Leary (Ireland),
Stéphanie Mourou-Vikström (Monaco),
Gabriele Kucsko-Stadlmayer (Austria),
Alena Poláčková (Slovakia),
Jolien Schukking (the Netherlands),
Péter Paczolay (Hungary),
Ivana Jelić (Montenegro), *judges*,
Jovan Ilievski ("the former Yugoslav Republic of Macedonia"),
Ksenija Turković (Croatia),
Georgios A. Serghides (Cyprus), *substitute judges*,

and also Johan Callewaert, *Deputy Grand Chamber Registrar*.

Representatives of the parties

Government

Zoltán Tallódi, *Agent*,
Mónika Weller, *Co-Agent*;

Applicant

Tamás Fazekas, Csaba Tordai, and Balázs T. Tóth, *Counsel*,
Dániel G. Szabó, *Adviser*.

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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.