



Fines for members of Parliament following their protests against controversial legislation: disproportionate sanction

In today's Chamber judgments¹ in the cases of [Karácsony and Others](#) and [Szél and Others v. Hungary](#) (application nos. 42461/13 and 44357/13) 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, and a violation of Article 13 (right to an effective remedy) in conjunction with Article 10.

The cases concerned complaints by members of the Hungarian Parliament of two opposition parties about having been fined, for gravely disturbing Parliament's work, following their protests against two legislative proposals.

The Court concluded that the sanctions had been disproportionate. In particular, they had been imposed by the Speaker of Parliament without compelling reasons, without a previous warning, and they had been adopted without a debate.

Principal facts

The applicants in the first case, Gergely Karácsony, Péter Szilágyi, Dávid Dorosz, and Rebeka Katalin Szabó, were born in 1975, 1981, 1985, and 1977 respectively and live in Budapest. They are members of the opposition party *Párbeszéd Magyarországért*. The applicants in the second case, Bernadett Szél, Ágnes Oszolykán, and Szilvia Lengyel, were born in 1977, 1974, and 1971 and live in Budakeszi, Budapest and Gödöllő respectively. They are members of the opposition party LMP.

During a Parliament session in April 2013, two of the applicants in the first case presented a billboard with the words "FIDESZ [the governing party]. You steal, you cheat and you lie." During the final vote on a law amending certain smoking-related acts in May 2013, two of the applicants showed a billboard stating "Here operates the national tobacco mafia". The applicants in the second case protested against a controversial legislative proposal on the transfer of agricultural lands, during the final vote on the bill in June 2013, by placing a small wheelbarrow filled with soil on a table in front of the Prime Minister and by displaying a banner with a slogan critical of the bill.

The applicants were fined between 170 euros (EUR) and EUR 600, respectively, for gravely disturbing Parliament's work. The fines were proposed by the Speaker of Parliament and adopted by the plenary without a debate.

Complaints, procedure and composition of the Court

The applicants complained that the decisions to fine them had violated their rights under Article 10 (freedom of expression) of the Convention, stating in particular that the measure was meant to discourage open debate and stressing that they had not endangered the functioning of Parliament. Further relying, in particular, on Article 13 (right to an effective remedy) read in conjunction with

1. 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.

Article 10, they further complained that under Hungarian law they did not have any remedy available in respect of that complaint.

The application was lodged with the European Court of Human Rights on 14 June 2013.

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

Guido **Raimondi** (Italy), *President*,
Işıl **Karakaş** (Turkey),
András **Sajó** (Hungary),
Nebojša **Vučinić** (Montenegro),
Egidijus **Kūris** (Lithuania),
Robert **Spano** (Iceland),
Jon Fridrik **Kjølbro** (Denmark),

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

Decision of the Court

Article 10

The Court considered that, as the applicants had been fined as a sanction for expressions which they had made, there had been an interference with their right to freedom of expression. The Court accepted the Hungarian Government's argument that the interference had pursued legitimate aims, namely the protection of the rights of others – Parliament's – and the prevention of disorder, within the meaning of Article 10.

As regards the question of whether the interference had been proportionate to the legitimate aims pursued, the Court underlined that, in a democratic society, freedom of expression was especially important for elected representatives of the people – Parliament being an essential forum for political debate. In that context, the Court did not accept the Government's argument that political expression in Parliament deserved lesser protection because of the immunity granted to its members.

The applicants, members of the parliamentary opposition, had expressed their views on public matters of the highest political importance: on the Government's project to re-regulate tobacco retail – in the case of *Karácsony and Others* – and on land-related legislation – in the case of *Szél and Others* – respectively. The Court considered the symbolic element an important constituent part of their expression.

Showing billboards, displaying a banner and using a megaphone, respectively, had been part of the applicants' political expression. These expressive acts of protest could not be equated in their function and effect with the speech opportunity which they been granted during the debate time. It had to be noted that the conditions of publicity were also different on the occasion of the vote on the respective legislation in comparison with the debate time. Furthermore, the Court underlined the particular importance of ensuring the right of minority members and parties in Parliament to express their opinions, and the right of the public to hear them.

Concerning the actual infringement of the rights of others, the Court was satisfied that the applicants' expressions had not created a significant disturbance. They had not delayed or prevented either the parliamentary debate or the vote. While they had made offensive accusations against the Government's policies, those accusations had not challenged the authority of Parliament.

Underlining the importance of impartiality in matters of disciplinary action in Parliament, the Court considered it significant that the sanctions against the applicants had been imposed by Parliament without debate and the Speaker had not given any warning to them. Parliament's decision imposing

the sanctions had been based on a proposal by the Speaker which referred in a clear manner to the applicants' actions but which did not specify why their conduct was gravely disturbing. Finally, the Court observed that the severity of the sanctions contrasted with the fact that little disturbance of Parliament's ability to function had actually occurred.

The Court concluded that there had been no compelling reason for the interference with the applicants' right to freedom of expression. There had accordingly been a violation of Article 10.

[Article 13 in conjunction with Article 10](#)

The Court further found a violation of Article 13 in conjunction with Article 10, as the applicants did not have an effective remedy under Hungarian law in respect of their complaints.

[Just satisfaction \(Article 41\)](#)

The Court held, *unanimously*, that Hungary was to pay the applicants the following amounts in respect of pecuniary damage: 170, 600, 240 and 240 euros (EUR) to Mr Karácsony, Mr Szilágyi, Mr Dorosz and Ms Szabó, respectively; and EUR 430, 510 and 430 to Ms Szél, Ms Osztolykán and Ms Lengyel, respectively.

It further held, *by a majority*, that Hungary was to pay EUR 3,000 to each applicant in respect of pecuniary damage.

Finally, it held *unanimously*, that Hungary was to pay EUR 6,000 to the applicants in the first case, jointly, and EUR 4,500 to the applicants in the second case, jointly, in respect of costs and expenses.

The judgments are 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.