



## Hungarian authorities failed to protect Roma against racist abuse during anti-Roma demonstration

In today's **Chamber judgment**<sup>1</sup> in the case of **Király and Dömötör v. Hungary** (application no. 10851/13) the European Court of Human Rights held, by five votes to two, that there had been: **a violation of Article 8 (right to respect for private and family life)** of the European Convention on Human Rights.

The case concerned an anti-Roma demonstration. Mr Király and Mr Dömötör – both of whom are of Roma origin – alleged that the police had failed to protect them from racist abuse during the demonstration and to properly investigate the incident.

The Court found in particular that the authorities' investigations into the incident had been limited. Namely, one of the investigations – concerning the speeches made during the demonstration – had not taken into account the specific context of the abuse and another – concerning the offence of violence against a group – had been slow and limited to acts of physical violence. The investigations had not therefore established the true and complex nature of the events. The cumulative effect of these shortcomings had meant that an openly racist demonstration, with sporadic acts of violence, had remained virtually without legal consequences. Indeed, the applicants' psychological integrity had not been effectively protected against what had amounted to nothing less than organised intimidation of the Roma community, by means of a paramilitary parade, verbal threats and speeches advocating a policy of racial segregation. The Court was concerned that this could be perceived by the public as the State's legitimisation and/or tolerance of such behaviour.

### Principal facts

The applicants, Alfréd Király and Norbert Dömötör, are Hungarian nationals who were born in 1971 and 1979 respectively and live in Devecser and Ajka (both in Hungary). Both are of Roma origin.

The demonstration was held in the town of Devecser in August 2012. It was attended by 400-500 people, including members of a right-wing political party and nine far-right groups known for their militant behaviour and anti-Roma stance. Devecser was classified as a special risk zone and there was an increased police presence in the area. Speeches delivered during the demonstration made racist threats against Roma people, called for the reintroduction of the death penalty, and urged Hungarian people to revolt against the Roma community. After the speeches, the demonstrators marched down Vásárhelyi Street, a neighbourhood home to many Roma people, chanting racist slogans and calling on the police not to protect the Roma people. Certain demonstrators dismantled the police cordon and threw pieces of concrete, stones, and plastic bottles into gardens.

During the march, both Mr Király and Mr Dömötör were in the gardens of houses in Vásárhelyi Street. Mr Király alleges that he reported to a police officer that an acquaintance of his had been injured by a stone thrown into his garden, but that nothing was done about it. According to Mr Dömötör, demonstrators leading the march had had a list and pointed out to the crowd houses

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

inhabited by Roma people. They alleged that the police had remained passive during the demonstration; that they had not dispersed the demonstration or taken any steps to identify which demonstrators had been engaging in violence against Roma.

Mr Király and Mr Dömötör first complained to the Veszprém county police department about the failure of the police to take action against the demonstrators. Their complaint was dismissed and this decision was upheld on appeal by the National Police Service. Mr Király and Mr Dömötör subsequently engaged in a number of appeals and judicial review proceedings in the administrative courts, without success.

Together with the Hungarian Helsinki Committee, they also lodged a criminal complaint concerning the speeches delivered at the demonstration and the attacks on the Roma community. The police investigation into the speeches was discontinued in September 2013, as, although they had been injurious to the Roma community, they could not be classified as a crime (incitement to violence against a group). The police could only identify one person who had taken part in the violence. He was convicted in June 2015 of violence against a member of a group and received a suspended custodial sentence.

In the meantime, Mr Király and Mr Dömötör, together with a third person, had also lodged a criminal complaint against unknown perpetrators for breach of discipline in the line of duty. These proceedings were discontinued in 2012.

## Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private and family life), Mr Király and Mr Dömötör complained in particular about the failure of the domestic authorities to adequately protect them from the demonstrators' racist abuse and to properly investigate the incident.

The application was lodged with the European Court of Human Rights on 5 February 2013.

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

Vincent A. De Gaetano (Malta), *President*,  
András Sajó (Hungary),  
Paulo Pinto de Albuquerque (Portugal),  
Krzysztof Wojtyczek (Poland),  
Egidijus Kūris (Lithuania),  
Gabriele Kucsko-Stadlmayer (Austria),  
Marko Bošnjak (Slovenia),

and also Marialena Tsirli, *Deputy Section Registrar*.

## Decision of the Court

### [Article 8 \(right to respect for private and family life\)](#)

Drawing on its case-law concerning statements alleged to have stirred up violence, hatred, and intolerance, the Court noted in particular that the domestic authorities should have paid attention to the specific context in which the obscene statements had been made : namely, during a rally which had been attended by groups known for their militant behaviour and anti-Roma stance, at a time when there had been large-scale, coordinated intimidation of Roma in the form of marches involving large groups of people. Furthermore, the speeches delivered had made direct threats against Roma people and had demanded the police not to protect the Roma minority. The domestic authorities had not apparently considered those factors when assessing the nature of the speeches and concluding that they had been hateful and abusive but had not incited violence. This was despite the

fact that, according to the domestic courts' case-law, racist statements together with the context in which they were expressed could constitute a clear and imminent risk of violence and violation of the rights of others.

Regarding the investigation into the offence of violence against a group, the Court noted that the proceedings had lasted almost three years and that their scope had been statutorily limited to acts of physical violence. Moreover, although the police had had plenty of time to interrogate numerous persons after the demonstration, only five had been questioned and three of the alleged perpetrators could not be identified. The Court therefore found that this limited investigation had not been capable of leading to the establishment of the facts of the case and had not constituted a sufficient response to the true and complex situation at hand.

The Court noted that the cumulative effect of these shortcomings had been that an openly racist demonstration, with sporadic acts of violence, had remained virtually without legal consequences. Indeed, the applicants' psychological integrity had not been effectively protected against what had amounted to nothing less than organised intimidation of the Roma community, by means of a paramilitary parade, verbal threats and speeches advocating a policy of racial segregation. The Court was concerned that this could be perceived by the public as the State's legitimisation and/or tolerance of such behaviour. Notwithstanding the room for manoeuvre ("margin of appreciation") given to the State in such matters, the Court held that there had been a violation of Article 8.

#### Article 41 (just satisfaction)

The Court held, by five votes to two, that Hungary was to pay the applicants EUR 7,500 each in respect of non-pecuniary damage, and EUR 3,205 to Mr Király and EUR 3,235 to Mr Dömötör for costs and expenses.

#### Separate opinions

Judges Wojtyczek and Kūris each expressed a dissenting opinion. Judge Bošnjak expressed a concurring opinion. These opinions are annexed to the judgment.

*The judgment is available only in English.*

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