



## Refusing journalist access to a reception centre for asylum-seekers was in breach of the European Convention

In today's **Chamber** judgment<sup>1</sup> in the case of **Szurovecz v. Hungary** (application no. 15428/16) 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 media access to reception facilities for asylum-seekers. The applicant in the case, a journalist for an Internet news portal, complained about the authorities' refusal of his request to carry out interviews and take photographs at the Debrecen Reception Centre, thus preventing him from reporting on the living conditions there.

The Court stressed that research work was an essential part of press freedom and had to be protected.

It was not convinced that restricting the applicant's ability to carry out such research work, which had prevented him from reporting first-hand on a matter of considerable public interest, namely the refugee crisis in Hungary, had been sufficiently justified.

In particular, the authorities had only given summary reasons, namely possible problems for the safety and private lives of asylum-seekers, for their refusal, without any real weighing up of the interests at stake.

### Principal facts

The applicant, Illés Szurovecz, is a Hungarian national who was born in 1993 and lives in Mezőberény (Hungary).

While working as a journalist for abcug.hu, an Internet news portal, he lodged a request with the immigration authorities in September 2015 to have access to the Debrecen Reception Centre to write a report on the living conditions of asylum-seekers. He specified that he would only take photographs of those who gave prior consent and would obtain a written authorisation from them if need be.

His request was, however, rejected for reasons concerning the private life and security of asylum-seekers. In particular, many of those in reception centres had fled some form of persecution and could therefore be put at risk if exposed in the media.

Mr Szurovecz sought a judicial review, without success. The administrative court declared his action inadmissible because the refusal was not an administrative decision under the relevant domestic law and was not therefore subject to judicial review.

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).

## Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression) and Article 13 (right to an effective remedy) of the European Convention, Mr Szurovecz complained that the authorities had prevented him from reporting first-hand on conditions at the Debrecen Reception Centre at the peak of the refugee crisis in Hungary.

The application was lodged with the European Court of Human Rights on 12 March 2016.

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

Ganna **Yudkivska** (Ukraine), *President*,  
Vincent A. **De Gaetano** (Malta),  
Paulo **Pinto de Albuquerque** (Portugal),  
Iulia Antoanella **Motoc** (Romania),  
Georges **Ravarani** (Luxembourg),  
Marko **Bošnjak** (Slovenia),  
Péter **Paczolay** (Hungary),

and also Marialena **Tsirli**, *Section Registrar*.

## Decision of the Court

The Court reiterated that an essential part of protecting freedom of the press was ensuring journalists' ability to carry out research work. Creating obstacles to journalists' access to information could discourage or even prevent them from providing accurate and reliable information to the public and consequently from playing their vital role as "public watchdogs".

Such had been the situation of the applicant when not being allowed to conduct interviews and take photographs inside the Reception Centre as he had been prevented from gathering information first-hand and from verifying asylum-seekers' conditions of detention as reported by other sources. The Court found that that had constituted an interference with his freedom of expression.

The interference had been lawful, as it was based on section 2 of Decree no. 52/2007 (XII.11) of the Ministry of Justice, and its aim, protecting the private lives of asylum-seekers, had been legitimate.

However, the Court found that the reasons given for such a restriction on the applicant's freedom of expression, although relevant, had not been sufficient.

First, as concerned the need to protect asylum-seekers' private lives, the immigration authorities had not apparently taken any notice of the applicant's argument that he would only take photographs with prior and, if need be, written consent. The Court also noted that reporting on the living conditions at the centre, although necessarily touching upon asylum-seekers' private lives, had not sought to sensationalise, but to report on a matter of public interest.

Secondly, neither the domestic authorities nor the Government had indicated how exactly asylum-seekers' safety could be jeopardised in practice, especially if the research only took place with their consent.

Thirdly, the Court disagreed with the Government that the applicant could just as easily have taken pictures and conducted interviews outside the Reception Centre and used information published by international organisations and/or NGOs. Those alternatives could in no way replace face-to-face discussions and first-hand impressions on living conditions. Indeed, in the eyes of the public second-hand data might not have carried the same weight or seemed as reliable.

Lastly, the courts had not been able to carry out any balancing exercise of the various interests involved, given that the decision to refuse access was not subject to judicial review.

Moreover, bearing in mind the importance in a democratic society of reporting on a matter of considerable public interest, namely the refugee crisis in Hungary, the authorities' decision to refuse access had not taken into account at all the applicant's interest as a journalist in carrying out research or the public's interest in receiving such information.

It followed that there had been a violation of Article 10.

Given that finding, the Court held that there was no need to examine the complaint under Article 13.

#### **Just satisfaction (Article 41)**

The Court held that the finding of a violation was in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant.

*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.