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Meeting: 1419th meeting (December 2021) (DH)

Item reference: Action Report (30/09/2021)

Communication from Hungary concerning the group of cases of KARACSONY AND OTHERS v. Hungary (Application No. 42461/13)

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Réunion : 1419^e réunion (décembre 2021) (DH)

Référence du point : Bilan d'action (30/09/2021)

Communication de la Hongrie concernant le groupe d'affaires KARACSONY ET AUTRES c. Hongrie (requête n° 42461/13) (*anglais uniquement*)

**Revised Action Report of 30 September 2021
in the Karácsony and Others group of cases**

DGI

30 SEP. 2021

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Cases concerned:

Karácsony and Others (Appl. No. 42461/13, judgment of 17/05/2016, final on 17/05/2016)

Scheiring and Szabó (Appl. No. 609/14, judgment of 03/12/2019, final on 03/12/2019)

Introductory case summary

This group of cases concerns violations of the right to freedom of expression of the applicants, at the material time all members of the opposition in the Hungarian Parliament, on account of the lack of adequate procedural safeguards as regards internal disciplinary measures (fines ranging from EUR 170 to EUR 600) imposed on them in 2013 for displaying billboards and using a megaphone accusing the Government of corruption (in the case of *Karácsony and Others*) and for displaying a large banner in the course both of Parliament adopting a proposal on its agenda and of an ongoing interpellation (in the case of *Scheiring and Szabó*) (violations of Article 10). The Court notably criticised that “the procedure did not afford the applicants any procedural safeguards. Neither did the decisions [...] contain any relevant reasons why the applicants’ actions were considered gravely offensive to parliamentary order” (*Karácsony and Others*, §157).

I. Individual measures

In *Karácsony and Others*, the just satisfaction awarded to the applicants in respect of pecuniary damage (to Mr Karácsony EUR 170, to Mr Szilágyi EUR 600, to Mr Dorosz EUR 240, to Ms Szabó EUR 240, to Ms Szél EUR 430, to Ms Osztoykán EUR 510 and to Ms Lengyel EUR 430); and in respect of costs and expenses (to all applicants jointly EUR 12,000) was altogether converted to HUF 4,541,264 and paid in due time.

In *Scheiring and Szabó*, the just satisfaction awarded to the applicants in respect of costs and expenses (to all applicants jointly EUR 2,000) was paid in due time.

No further individual measures are necessary in this group of cases.

II. General measures

a) Publication and dissemination

The ECtHR’s judgments were translated and published on the website of the Ministry of Justice (see <http://igazsagugyiinformaciok.kormany.hu/az-emberi-jogok-europai-birosaganak-iteletei>). The judgments were also forwarded to the Constitutional Court and the Parliament was directly informed about the cases.

b) Legislative changes

On 13 February 2014 Parliament passed an amendment to the Parliament Act, modifying the rules of disciplinary procedure for MPs (Act no. XIV of 2014, incorporating a new section 51/A into the Parliament Act). The amendment introduced, inter alia, the possibility for a fined MP to seek a remedy before a committee. It entered into force on 4 March 2014.

Regarding this legislative amendment, the Court noted in § 160 of the judgment in *Karácsony and Others* that “the amendment to the Parliament Act introducing the possibility for a fined MP to seek a remedy and to make representations before a parliamentary committee entered into force on 4 March 2014 and that the minimum procedural safeguards required in the present situation thus appear to have been put in place.”

Furthermore, the relevant provisions of the Parliament Act were amended once again, as of 1 February 2020, by the Act CVIII of 2019. The explanatory report to this latter piece of legislation puts forward the following:

“In 2012, Parliament introduced new disciplinary rules. Following some practical experience triggered by those regulations and the principles set forth by the European Court of Human Rights, it became necessary to amend the provisions in a comprehensive manner, and the Proposal therefore incorporates disciplinary rules, a range of possible sanctions and a legal remedy procedure into the new system.” [...]

“The above principles were also laid down by the European Court of Human Rights in its judgment in *Karácsony and Others v. Hungary*. The Grand Chamber ruled that while freedom of debate in parliament is essential in democratic societies, this freedom is not unlimited in nature. The exercise of freedom of expression in Parliament carries with it the “duties and responsibilities” referred to in Article 10 (2) to ensure the effective operation of Parliament. Parliaments are entitled under this provision to react when their members engage in disorderly conduct disrupting the normal functioning of the legislature. In the light of this, the Court considers that there is an overriding public interest in ensuring that Parliament, while respecting the demands of a free debate, can function effectively and pursue its mission in a democratic society.

The judgment of the Grand Chamber also sets out the conditions of due process that must be respected in the sanctions procedure against a MP who has infringed the rules of the House. The disciplinary sanction must be duly reasoned, and the decision must be subject to an effective appeal, during which the Member may express his or her views.”

As of 1 February 2020, the relevant provisions of the Parliament Act read as follows:

14/A. Visual, pictorial or audio demonstration

38/A § 1) Except as provided for in paragraphs (2) to (3), the use of visual, pictorial or audio demonstration (hereinafter referred to as “demonstration”) shall not be used during a sitting of Parliament or a committee meeting.

(2) The House Committee shall authorise the use of visual, pictorial or audio demonstration during the sitting of Parliament. An application for the authorisation of the demonstration may be submitted not later than one hour before the commencement of the sitting of the House Committee.

(4) A demonstration authorised under subsection (2) [...] may be made to the extent necessary for the expression of the speaker's views. [...]

18. Maintenance of order and disciplinary powers during sittings of Parliament

47 § (3) The Speaker shall make his decision [on the reduction of the MP's honorarium as disciplinary measure] within fifteen days of the conduct. **The Speaker shall immediately notify the MP in writing of his decision, stating the reasons for it.** [...]

51 § (2) Within eight days of the written notification of the decision, **the MP affected by the decision of the Speaker** under Article 47 **may request the Committee on Immunities,**

Conflict of Interest, Discipline and Verification of Credentials to repeal the decision by submitting a request to the Chairperson of the Committee. [...]

(4) If the MP so requests in his/her application, **he/she shall be heard** by the Committee on Immunities, Conflict of Interest, Discipline and Verification of Credentials during the appeal procedure. [...]

(6) If the Committee on Immunities, Conflict of Interest, Discipline and Verification of Credentials grants the MP's request [...], the measure ordered against the MP shall not be implemented and the disciplinary proceedings shall be terminated. The decision of the committee shall be announced at the next sitting of Parliament.

(7) If the Committee on Immunities, Conflict of Interest, Discipline and Verification of Credentials does not grant the request of a MP under paragraphs (1) or (2) or does not decide on the request within the time limit for its consideration, the **MP may, within eight days** of the written communication of the decision of the Committee on Immunities, Conflict of Interest, Discipline and Verification of Credentials or of the information notice under paragraph (5), **request the Parliament**, by submitting a request to the Speaker, to [...] **to have the decision set aside**.

(8) **Parliament shall decide on an application** under subsection (7) without debate at the sitting following the submission of the application, [...].

The above provisions currently in force address all the shortcomings identified by the Court in the *Karácsony and Others* judgment. The new legislative framework ensures that when the Speaker applies disciplinary measures and, in particular, reduces the MP's honorarium, the Speaker has to notify the MP of his decision in writing, stating the reasons for it. Within eight days of such notification, the MP has the right to seek remedy before the Committee on Immunities, Conflict of Interest, Discipline and Verification of Credentials and to request that the decision be repealed. In the course of this process the MP has the right to be heard by the Committee. If the Committee does not grant the request or fails to decide on the request within the time limit, the MP may, within eight days, request the Parliament to have the decision set aside.

Accordingly, the legislative framework ensures that an MP affected by a disciplinary measure is provided with adequate procedural safeguards, namely, to seek remedy against the disciplinary decision in two levels and to have the right to be heard during such remedy process.

No further general measures are required in this group of cases.

III. Conclusions of the respondent state

The Government consider that the measures adopted have fully remedied the consequences for the applicants of the violation of the Convention found by the Court in this group of cases, and that Hungary has thus complied with its obligations under Article 46, Paragraph 1 of the Convention.

Budapest, 30 September 2021

Zoltán Tallódi
Agent of the Government of Hungary