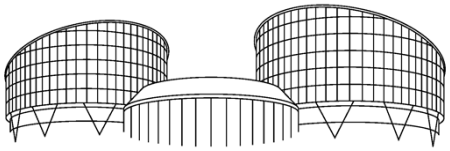

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF VINCZE v. HUNGARY

(Application no. 44390/16)

JUDGMENT

STRASBOURG

21 October 2021

This judgment is final but it may be subject to editorial revision.

In the case of Vincze v. Hungary,

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Alena Poláčková, *President,*
Péter Paczolay,
Gilberto Felici, *judges,*
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 44390/16) against Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Hungarian national, Mr Krisztián Vincze ("the applicant"), on 26 July 2016;

the decision to give notice to the Hungarian Government ("the Government") of the complaint concerning the alleged violation of the applicant's right to freedom of peaceful assembly and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated in private on 28 September 2021,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The applicant complained under Article 11 of the Convention that his right to freedom of assembly had been unjustifiably restricted.

THE FACTS

2. The applicant was born in 1976 and lives in Budapest. He was represented by Mr T. Hüttl, a lawyer practising in Budapest.

3. The Government were represented by their Agent at the Ministry of Justice, Mr Z. Tallódi.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

5. The applicant, together with another person, intended to organise demonstrations to draw attention to the situation of those having foreign currency loans and to alleged fraudulent banking policies, and also to "put pressure on the decision-makers so that respect for the rule of law gains primacy over the interests of oligarchs". On 8 December 2014 the applicant notified the Budapest police department of his intention to organise a demonstration. The event was scheduled for 19 December 2014 between 9 a.m. and 8 p.m. and was planned to take place at nine venues: the headquarters of different banks, the Israeli embassy, the *Kúria*, the home of the chief executive officer (CEO) of the biggest commercial bank in Hungary, the home of the prime minister and the Offices of the National

Assembly, including a march between the different locations. The organisers also specified that it was expected that about thirty to one hundred persons and about twenty to fifty cars would participate in the event.

6. On the same day the organisers met with representatives of the Budapest police department for a "conciliation meeting" with the aim of amending the programme of the demonstration. The representative of the police department informed them that the demonstration should not disturb the proper functioning of and entry into the buildings in question and should not put pressure on the judiciary. He also reminded the organisers that the home of the prime minister was under special protection. The organisers amended the agenda of the demonstration, reducing the time spent outside the *Kúria* building and at the prime minister's home to ten minutes, and agreeing to use megaphones only and to approach these venues only on foot. The organisers also agreed to change the aim of the demonstration from "putting pressure on decision-makers" to "raising public awareness".

7. On 9 December 2014 the Budapest police department banned the holding of the demonstration outside the *Kúria* building and the homes of the prime minister and the CEO of the bank. The reasoning of the decision stated that according to the information received from the vice-president of the *Kúria*, the aim of the demonstration, namely "putting pressure on decision-makers", was unconstitutional and likely to endanger the independence and proper functioning of the judiciary, and was therefore prohibited under section 8(1) of the Act no. III of 1989 on the right to assembly ("the Assembly Act"). As regards the demonstration at the homes of the prime minister and the CEO of the bank, the decision held that the demonstration would constitute a direct threat to the inhabitants' right to private and family life, to their right to property and to their right to move around freely. It would be likely to frighten the children attending the nearby school, and it would endanger the safety of the protected persons living in the premises. Therefore, the demonstration at those places was prohibited under section 2(3) of the Assembly Act.

8. On 16 December 2014 the Budapest Administrative and Labour Court dismissed the organisers' request for a judicial review, endorsing in essence the police authorities' reasoning. The court explained that even the amended aim of the demonstration – "raising awareness" – was likely to exert influence on and thereby infringe the independence of the judiciary, irrespective of the peaceful nature of the demonstration, adding that the organisers had not submitted any evidence to the contrary. The court relied in this respect on section 8(1) of the Assembly Act. As regards the demonstration at the private addresses of the prime minister and the CEO of the bank, the court was of the view that they were not "symbolic public places with a communication function", but residential areas. The protection of the residents' private life and civil rights was a relevant reason to restrict

the right to assembly under section 2(3) of the Assembly Act. The court added that as a "captive audience" the residents would not be able to avoid having to listen to statements they potentially disagreed with or found offensive. Also, the expression of the opinions of the demonstrators was likely to cause fear and distress in the children attending the school nearby. Based on these reasons, the court found that the restriction was necessary and proportionate.

9. The organisers lodged a complaint with the Constitutional Court. In decision no. 13/2016 (VII.16) AB of 12 July 2016, the Constitutional Court dismissed the complaint but found, examining the issue of its own motion, that there existed an unconstitutional legal lacuna since the law did not set out guidance for those applying the legislation in cases of conflict between the right to private life and the right to freedom of assembly. The decision of the Constitutional Court contained the following passages:

> "...
>
> In the present case the Constitutional Court observes that the trial court did not take into consideration that the conduct of the police vacated their power to assess and decide; the conciliation procedure – of primordial importance in guaranteeing fundamental rights – became only formal. The Constitutional Court reiterates that the role of the conciliation procedure is to remove the legal obstacles from holding a planned demonstration and, in the event it is successful, to pave the way for the exercise of the right to freedom of assembly. At the same time, the Constitutional Court emphasises that it has no power to reassess the evidence; it is up to the police and the trial court to decide whether the present circumstances constituted 'seriously endangering' the functioning of the judiciary; accordingly there is a reinforced obligation of those applying the law to provide reasons for their decisions.
>
> As regards the demonstration [outside the homes of the prime minister and the CEO of the bank], the Constitutional Court emphasises that the right to freedom of assembly can have an impact on the fundamental rights of others. It also points out that 'the infringement of the rights of others' as regulated in the Assembly Act is not a ground to prohibit a demonstration but, in accordance with sections 2(3) and 14(1), a reason to disperse a demonstration ...
>
> In the present case, the police relied on section 2(3) of the Assembly Act and the court carrying out the judicial review of this decision reasoned that 'under section 2(3) of the Assembly Act, even a (presumably) peaceful demonstration can be banned'. It is nonetheless questionable how a peaceful demonstration can infringe the rights of others.
>
> The length of the demonstration is also important. In the present case it can be established that the court paid no heed to the organisers' intention to reduce the length of the demonstration. On the one hand, the decision of the court did not consider at all the length of the demonstration and the fact that it had been reduced in the course of the reconciliation procedure; on the other hand, the decision of the court gives the impression that it did not assess the circumstances of the present case as it was referring to 'continuous', 'lifestyle' and repeated demonstrations, which were irrelevant in the present case.
>
> The Constitutional Court reiterates that in accordance with Article I § 3 of the Fundamental Law, the grounds for restricting the fundamental right to freedom of

assembly should be defined by Parliament in a legislative act and in accordance with the principles of necessity and proportionality. The exhaustive list of these grounds is currently set out in section 8(1) of the Assembly Act.

At the same time the Constitutional Court takes note of the fact that the current legislative environment does not provide any means for those applying the law in cases of a conflict with fundamental rights and constitutional values other than those listed in section 8(1) of the Assembly Act.

The Constitutional Court finds that both the police and the court relied on section 2(3) of the Assembly Act because they recognised the conflict with fundamental rights. Since the present case is not a unique situation, the Constitutional Court does not find it sufficient to remind the trial court – in accordance with Article I § 3 of the Fundamental Law and with the international obligations of Hungary – that the grounds for prohibiting a demonstration are foreseen by a legislative act, namely section 8(1) of the Assembly Act. Nevertheless, since in the present case the petitioner had the possibility to express his opinion at a number of stages of the demonstration, the Constitutional Court finds that his right to freedom of assembly has not been disproportionally restricted. Therefore, it rejects the constitutional complaint challenging the constitutionality of the judicial decision.

[T]he Constitutional Court also observes that the legal system does not define the standards and procedures the police have to take into account when reconciling the right to freedom of peaceful assembly and other fundamental rights in cases of conflict. The Constitutional Court finds that the underlying reason for the restrictive judicial practice manifested in the present case is the lack of legal guarantees foreseeing less restrictive measures and conditions other than banning demonstrations. In the opinion of the Constitutional Court, in exceptional circumstances the conflict between fundamental rights could result in the most severe restriction, namely, banning a demonstration; however, the mere fact that there is a conflict between fundamental rights is not a sufficient ground for banning a demonstration. In cases of a conflict between fundamental rights, with the exception of when there is good reason to ban a demonstration, there should be a way for the police to negotiate with the organisers of a demonstration in order to strike a balance that enables the holding of a demonstration and the exercise of other concurring fundamental rights protected by the Fundamental Law. In this regard, those applying the law should have the possibility to assess the circumstances of the demonstration without emptying the fundamental right of its basic content.

...

In the Constitutional Court's view, it is the obligation of the legislature to provide guidance for those applying the legislation to effectively fulfil their obligations under Article I of the Fundamental Law in cases of conflicting fundamental rights ...

In the light of the above, and bearing in mind the right to home as a part of the right to private life and the right to freedom of peaceful assembly, the Constitutional Court – acting of its own motion – finds that there is an unconstitutional legislative lacuna in violation of Articles I and IV of the Fundamental Law in that the legislature has not regulated the standards and procedures applicable for reconciling the fundamental right to private life with the fundamental right to freedom of assembly. Thus, the Constitutional Court calls on Parliament to fulfil its legislative obligation by 31 December 2016.

..."

RELEVANT LEGAL FRAMEWORK

10. The relevant provisions of Act no. III of 1989 on the right to assembly ("the Assembly Act"), as in force at the material time, read as follows:

Section 2

"(1) Exercising the right to assembly covers holding peaceful assembly events, marches and demonstrations (hereinafter: event), where the participants may freely express their opinions.

(2) The participants of the event are entitled to convey their opinion to those interested.

(3) Exercising the right to assembly shall not result in committing a criminal offence or incitement to committing a criminal offence and shall not result in the violation of the rights and freedoms of others."

Section 6

"Events organised in public areas shall be notified to the police, or to the Budapest police department (hereinafter: the Police) if the event is planned to be held in Budapest, at least three days before the intended date of the event. The organiser of the event shall comply with this notification obligation."

Section 8

"(1) If the holding of an event subject to prior notification seriously endangers the proper functioning of the representative bodies or courts, or results in a disproportionate hindrance of the circulation of traffic, the police may prohibit the holding of the event at the place or time indicated in the notification, within forty-eight hours of receipt of the notification by the authority.

(2) The decision of the Police shall be announced to the organiser within twenty-four hours in written form.

(3) The general rules of administrative proceedings are applicable to the proceedings of the Police."

Section 14

"(1) The Police shall disperse the event if the exercise of the right to assembly violates the provisions of section 2(3), if the participants of the event are armed with firearms or explosives or any other object that could be used to endanger life, or an event is held despite a decision prohibiting it.

(2) The dispersal of the event shall be preceded by a warning.

(3) If the event is dispersed, any participant of the event may initiate proceedings requesting the court to establish that the disbanding of the event was unlawful.

..."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

11. The applicant complained that the ban imposed by the authorities on organising the demonstration at certain locations had breached his right to freedom of peaceful assembly, guaranteed by Article 11 of the Convention, which reads as follows:

> "1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
>
> 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

A. Admissibility

12. The Court notes that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

13. The applicant did not dispute that the prohibition on the demonstration had served a legitimate aim, but argued that the restriction had been neither prescribed by law nor proportionate to the aims pursued.

14. He argued that the protection of the rights and freedoms of others was a legitimate basis for dispersing an ongoing demonstration under sections 2 and 14 of the Assembly Act, whereas section 8(1) of the same Act allowed for the prior prohibition of a demonstration, but did not contain a reference to the protection of the rights of others. According to the applicant, the case-law of the domestic courts was consistent in that it only allowed for a prior restriction of a demonstration under the exhaustive list in section 8.

15. The applicant further argued that the police had accepted the opinion of the vice-president of the *Kúria* – that holding the demonstration outside the court's building would endanger the independence of the judiciary – without any factual evidence substantiating this conclusion and despite the

fact that the organisers had made a number of amendments to the planned programme of the demonstration. In his view, public authorities were in any case supposed to demonstrate a certain tolerance towards the expression of critical opinions: while the independence of the judiciary certainly enjoyed protection, this did not mean that courts should be free of criticism altogether. In the applicant's understanding, the Government were implying that any demonstration held in the vicinity of courts was necessarily unconstitutional.

16. The applicant also disputed the finding of the Budapest Administrative and Labour Court, as endorsed by the Government, that the demonstration in the vicinity of the homes of the prime minister and the CEO of the bank would have made residents a "captive audience". He pointed out that any demonstration in a public place inevitably caused a certain level of inconvenience and disruption to ordinary life, which in the present case did not go beyond what members of society had to tolerate. The applicant also found the court's and the Government's reliance on the rights of children unfounded.

(b) The Government

17. The Government agreed that there had been an interference with the applicant's right to freedom of assembly, but maintained that the interference had had a legal basis in the Assembly Act, which required a prior notification for assemblies and contained the rules regarding banning and dispersing a demonstration.

18. The Government also argued that the restriction had been necessary and proportionate. In this respect they endorsed the finding of the Budapest police department and the Budapest Administrative and Labour Court that the assembly would have violated the right to family life and private life of those living in the residential areas where the demonstration was to have taken place. It would also have been frightening for the children residing or going to school in the neighbourhood. Furthermore, it had been necessary to ban the demonstration outside the *Kúria*, since it had been linked to cases under examination by the *Kúria* at the material time and the purpose of the event had been to "put pressure" on decision-makers, that is, to influence their decision in a forceful way, capable of seriously influencing the independent and uninterrupted functioning of the court. The Government emphasised that the organisers had not submitted evidence in the course of the domestic proceedings to refute those concerns.

19. The Government also pointed out that the applicant had had the opportunity to express his opinion in other ways, since the prohibition had only concerned three venues of the event.

2. The Court's assessment

(a) Whether there was an interference

20. The Court reiterates that the right to freedom of assembly includes the right to choose the time, place and manner of conduct of the assembly, within the limits established in paragraph 2 of Article 11. The Court stresses in this connection that the organisers' autonomy in determining the assembly's location, time and manner of conduct, such as, for example, whether it is static or moving or whether its message is expressed by way of speeches, slogans, banners or by other means, are important aspects of freedom of assembly. Thus, the purpose of an assembly is often linked to a certain location and/or time, to allow it to take place within sight and sound of its target object and at a time when the message may have the strongest impact (see *Lashmankin and Others v. Russia*, nos. 57818/09 and 14 others, § 405, 7 February 2017, with further references).

21. In the present case the competent authorities banned the demonstration planned by the applicant outside the *Kúria* and the homes of the prime minister and the CEO of the bank. The Court considers that the ban on holding the demonstration at those locations constituted an interference with the applicant's right to freedom of peaceful assembly. The fact that the applicant was able to organise the demonstration at other venues is of no relevance in this respect.

22. An interference will constitute a breach of Article 11 unless it is "prescribed by law", pursues one or more of the legitimate aims referred to in paragraph 2 and is "necessary in a democratic society" for the achievement of such aim or aims.

(b) Whether the interference was justified

(i) As regards the demonstration planned in front of the homes of the prime minister and the bank CEO

23. The Court reiterates its case-law to the effect that the expressions "prescribed by law" and "in accordance with the law" in Articles 8 to 11 of the Convention not only requires that the impugned measure should have a legal basis in domestic law, but also refers to the quality of the law in question, which should be accessible to the person concerned and foreseeable as to its effects. In particular, a norm cannot be regarded as a "law" unless it is formulated with sufficient precision to enable the citizen – if need be, with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail (see *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, §§ 108-09, ECHR 2015).

24. The Court notes that the Budapest police department prohibited the demonstration outside the homes of the prime minister and the CEO of the bank on the grounds that it would have constituted a direct threat to the

inhabitants' right to private and family life, to their right to property and to their right to move around freely. Furthermore, it would have frightened the children attending the school in the vicinity. The Administrative and Labour Court upheld this decision, finding that the protection of the residents' private life and civil rights was a relevant reason to restrict assemblies. Both instances relied on section 2(3) of the Assembly Act.

25. The Court notes that the Assembly Act, as in force at the material time, required an advance notification to the authorities of an intention to hold a demonstration and stipulated that a restriction thereon could be imposed by the police department within forty-eight hours under the circumstances foreseen in section 8(1) of the Assembly Act, namely endangering traffic or the functioning of representative bodies or of the judiciary.

26. The Court notes that the list of circumstances in section 8(1) of the Assembly Act was exhaustive. As found by the Constitutional Court in its decision of 12 July 2016, the national law, as in force at the material time, did not provide for the possibility of prohibiting planned assemblies under other circumstances than those listed in section 8(1) of the Assembly Act. As the Constitutional Court pointed out, the protection of the right to private life of others, relied on by the police and the Administrative and Labour Court in the present case, was not among these grounds (see the decision of the Constitutional Court, paragraph 9 above). The Constitutional Court also stated that the legislative framework did not provide for any procedure for the relevant authorities to resolve the supposed conflict of fundamental rights – that is the right to freedom of peaceful assembly and the rights of others – when deciding whether to authorise demonstrations, leading to discrepancies in the system.

27. The protection of the rights of residents, invoked by the police and the Administrative and Labour Court, was set out in section 2(3) of the Assembly Act and together with section 14 provided for a separate procedure: as explained by the Constitutional Court, those two provisions were intended for a very different purpose, namely, the dispersing of a demonstration already taking place in cases where it infringed the rights of others. Thus, the provision relied on by the police and the Administrative and Labour Court could not serve as the grounds for banning a demonstration.

28. The foregoing consideration is sufficient to enable the Court to conclude that the interference was devoid of a basis in domestic law and cannot as such be regarded as "prescribed by law". It is therefore not necessary to embark on an examination of its legitimate aim or necessity in a democratic society (see *Patyi v. Hungary*, no. 35127/08, § 27, 17 January 2012).

29. There has accordingly been a violation of Article 11 of the Convention in respect of the demonstration planned in front of the homes of the prime minister and the bank CEO.

(ii) *As regards the demonstration planned before the* Kúria

30. It has not been disputed by the parties that the restriction had a legal basis, namely section 8 of the Assembly Act. They did not contest the aim of the restriction either. The Court notes in this respect that unlike the second paragraph of Article 10, paragraph 2 of Article 11 does not allow restrictions the aim of which is maintaining the authority and impartiality of the judiciary. That being said the Court has already found that a ban on holding public events in the immediate vicinity of court buildings may have served a legitimate interest, namely that of protecting the judicial process in a specific case from outside influence, and thereby protecting the rights of others, namely the parties to judicial proceedings (see *Lashmankin and Others*, cited above, § 440), as well as that of "preventing disorder" (see *Sergey Kuznetsov v. Russia*, no. 10877/04, § 38, 23 October 2008). For the Court the same approach should be applied in the present case. Thus, the Court accepts that the restriction pursued "legitimate aims" within the meaning of paragraph 2 of Article 11, those of protecting the rights of others and preventing disorder. It remains to be determined whether it was "necessary in a democratic society".

31. The Court reiterates that the right to freedom of peaceful assembly is, like the right to freedom of expression, one of the foundations of any democratic society. Consequently exceptions to the right to freedoms of association and assembly must be narrowly interpreted, such that the enumeration of them is strictly exhaustive and the definition of them necessarily restrictive (see *Sidiropoulos and Others v. Greece*, 10 July 1998, § 39, *Reports of Judgments and Decisions* 1998-IV, and *Svyato-Mykhaylivska Parafiya v. Ukraine*, no. 77703/01, § 132, 14 June 2007). Only truly convincing and most compelling reasons can justify an interference with this right (see *Ouranio Toxo and Others v. Greece*, no. 74989/01, § 36, ECHR 2005-X (extracts)). The subjection of public assemblies to an authorisation or notification procedure does not normally encroach upon the essence of the right as long as the purpose of the procedure is to allow the authorities to take reasonable and appropriate measures in order to guarantee the smooth conduct of any assembly, meeting or other gathering, be it political, cultural or of another nature (see *Bukta and Others v. Hungary*, no. 25691/04, § 35, ECHR 2007-III). In the context of public assemblies in front of court buildings, the Court has already found that the judiciary cannot be immune from criticism (see *Sergey Kuznetsov*, cited above, § 47, and *Kakabadze and Others v. Georgia*, no. 1484/07, § 88, 2 October 2012*)*.

32. There is no suggestion that the fact that the demonstration was not authorised was due to the organisers' viewpoint; rather it was due to the assertion of the vice-president of the *Kúria* that the demonstration would endanger the independence and proper functioning of the judiciary. While it is certainly true that the judiciary should appear to be immune to public pressure, the facts of the case call into question the assertion concerning the potential level of disruption to the functioning of the judiciary.

33. The reason for the demonstration was to draw attention to the situation of those having foreign currency loans, referring to a matter which was of great public concern at the material time. The Court observes that the demonstration planned in front of the *Kúria* was to last only a brief period of time (ten minutes only, see paragraph 6 above) and the demonstrators showed flexibility in changing the manner in which they intended to convey their message: they agreed not to use megaphones and to amend their program from "putting pressure on decision-makers" to "raising public awareness".

34. Although the element of "putting pressure on decision-makers" was phrased in somewhat hyperbolic language, not only was it readily amended by the organisers but it did not amount, in the eyes of the Court, to contempt of court or otherwise wrongful acts. It does not appear that any of the *Kúria*'s decisions, any court officer or judge, or any identifiable proceedings would have been the direct target of criticism by the demonstrators. It is relevant to point out in this respect that the demonstration was planned at a number of venues, such as banks and the homes of political and financial decision-makers. In that context a demonstration taking place before the *Kúria* could be viewed as having a symbolic connotation rather than the aim of impeding the administration of justice.

35. The Court also notes that the domestic authorities relied on the statement of the vice-president of the *Kúria* without further inquiry into the circumstances of the planned demonstration, and in particular into its subject matter. In practice this approach excluded any balancing of the interests of the demonstrators against the interest in preserving the appearance of an independent judiciary. It also had as a result that any demonstration planned in front of the *Kúria* is to be considered as subjecting the court to outside influence.

36. In view of the above, the Court considers that the reason put forward by the national authorities of protecting the *Kúria* from outside influence was relevant but not sufficient in the circumstances of the present case to justify an interference with the applicant's right to freedom of assembly.

37. It follows that there has been a violation of Article 11 of the Convention in respect of the demonstration planned in front of the *Kúria.*

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

38. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

39. The applicant claimed 3,000 euros (EUR) in respect of non-pecuniary damage.

40. The Government contested this claim.

41. The Court considers that the applicant suffered some non-pecuniary damage and awards him the full sum claimed.

B. Costs and expenses

42. The applicant also claimed EUR 1,470 in respect of the costs and expenses incurred before the Court, an amount comprising his lawyer's fees, which equated to forty-nine hours of legal work at an hourly rate of EUR 30, plus VAT.

43. The Government did not comment on this claim.

44. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum claimed in full.

C. Default interest

45. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 11 of the Convention;

3. Holds

(a) that the respondent State is to pay the applicant, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
  (i) EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
  (ii) EUR 1,470 (one thousand four hundred and seventy euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 21 October 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

{signature_p_2}

Liv Tigerstedt
Deputy Registrar

Alena Poláčková
President