



Systematic publishing of tax debtors' personal data in Hungary breached the Convention

In today's **Grand Chamber** judgment¹ in the case of [L.B. v. Hungary](#) (application no. 36345/16) the European Court of Human Rights held, by 15 votes to 2, that there had been:

a violation of Article 8 (right to respect for private and family life and the home) of the European Convention on Human Rights.

The case concerned the Hungarian legislative policy of publishing the personal data of taxpayers who were in debt. The applicant complained in particular that his name and home address had been published on a list of "major tax debtors" on the tax authorities' website under a 2006 amendment to the relevant tax legislation.

The Court found that the amended publication scheme had been systematic, without any weighing up of the public interest in ensuring tax discipline against the individual's privacy rights.

In particular, Parliament had not assessed the previous publication schemes and their impact on taxpayers or reflected as to what the additional value would be of the 2006 amended scheme. Moreover, little or no consideration had been given to data protection, the risk of misuse by the general public of a tax debtor's home address, or the worldwide reach of Internet.

The Court was not therefore satisfied, notwithstanding the respondent State's wide discretion to decide on such matters, that the Hungarian legislature's reasons for enacting the amended publication scheme, although relevant, had been sufficient to show that the interference with the applicant's rights had been "necessary in a democratic society".

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicant is a Hungarian national who was born in 1966 and lives in Budapest.

In Hungary, the National Tax and Customs Authority was required by law to publish the personal data of taxpayers who were in arrears. In particular, the relevant domestic law, namely section 55(3) of Act no. XCII of 2003 on Tax Administration ("the 2003 Tax Administration Act"), provided that the Tax Authority had to publish the personal details of those individuals whose tax arrears exceeded 10 million Hungarian forints (HUF – approximately 26,000 euros (EUR)) on a list of tax defaulters on its website.

This legislation was amended in 2006 to include tax debtors in the publication scheme. In particular, section 55(5) was added to the 2003 Tax Administration Act, providing that the Tax Authority had to publish a list of "major tax debtors", including the personal data of those whose tax debts exceeded HUF 10 million over a period of more than 180 days. The legislature considered the amendment necessary to "whiten the economy". It justified broadening the categories of taxpayers subject to publication of their personal data to include tax debtors on the basis that unpaid tax debts were not only a matter of arrears, but could also have been the result of conduct in breach of tax payment obligations.

1. Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Following a tax inspection in 2013 the Tax Authority found that the applicant had tax arrears amounting to approximately EUR 625,000. Specifically, it found that he had not paid income tax on approximately EUR 2 million which he had withdrawn in cash from the bank account of a limited liability company of which he had been managing director until 2009. It dismissed his claim that he had passed the money on to the company's business partners. He was fined EUR 490,000 with interest.

This finding was endorsed by the courts, ultimately by the *Kúria* in 2015. The applicant's constitutional court complaint was declared inadmissible in 2017.

In the meantime, in 2014 the Tax Authority had published the applicant's personal details on a list of tax defaulters on its website, as provided for under section 55(3) of the 2003 Tax Administration Act. The information published included the applicant's name, home address, tax identification number and the amount of unpaid tax which he owed.

Pursuant to the amended 2006 legislation, namely section 55(5) of the 2003 Tax Administration Act, he subsequently, in 2016, also appeared on a list of "major tax debtors" on the Tax Authority's website.

Around the same time an online media outlet produced an interactive map of tax debtors shown with red dots, which indicated the applicant's home address.

His data was removed from the list of "major tax debtors" when his tax arrears became time-barred in 2019.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 7 June 2016.

Relying on Article 8 (right to respect for private and family life and the home) of the European Convention on Human Rights, the applicant alleged that the publication of his name and other details on the Tax Authority's website for failing to comply with his tax obligations had not been necessary in a democratic society and had infringed his right to private life. He submitted that the main reason behind the Hungarian legislative policy of making the data available had been to publicly shame him and had amounted to an attack on his reputation.

In its Chamber [judgment](#) of 12 January 2021, the Court held, by 5 votes to 2, that there had been no violation of Article 8 of the European Convention.

On 31 May 2021 the Grand Chamber Panel accepted the applicant's request that the case be referred to the Grand Chamber².

A hearing took place on 3 November 2021 in the Human Rights Building, Strasbourg.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Síofra **O'Leary** (Ireland), *President*,
Robert **Spano** (Iceland),
Gabriele **Kucsko-Stadlmayer** (Austria),
Pere **Pastor Vilanova** (Andorra),
Ksenija **Turković** (Croatia),
Krzysztof **Wojtyczek** (Poland),

² Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

Valeriu **Grițco** (the Republic of Moldova),
Egidijus **Kūris** (Lithuania),
Georgios A. **Serghides** (Cyprus),
Lətif **Hüseynov** (Azerbaijan),
Péter **Paczolay** (Hungary),
Ivana **Jelić** (Montenegro),
Raffaele **Sabato** (Italy),
Saadet **Yüksel** (Türkiye),
Lorraine **Schembri Orland** (Malta),
Ana Maria **Guerra Martins** (Portugal),
Ioannis **Ktistakis** (Greece),

and also Søren **Prebensen**, *Deputy Grand Chamber Registrar*.

Decision of the Court

The Grand Chamber limited its examination of the applicant's complaints to the publication of his personal data on the list of major tax debtors under section 55(5) of the 2003 Tax Administration Act, joining to this his allegation of an attack on his reputation.

As to the merits of the case, the Court first found that the Tax Authority's publication of the applicant's personal data had entailed an interference with his right to respect for his private life. In particular, the data published on the applicant, including his name and home address, had clearly concerned his private life. Furthermore, it could not rule out certain negative repercussions of having one's identity thus disclosed.

The Court could see no reason to question that that interference had been "in accordance with the law" within the meaning of the Convention. There was no dispute that the publication of the list of major tax debtors had had a legal basis in national law, namely section 55(5) of the 2003 Tax Administration Act.

Furthermore, it accepted that public disclosure of major tax debtors' data had intended to improve tax discipline and provide insight into potential business partners' fiscal situation. The aim of the interference had therefore been legitimate.

Although Contracting States had wide discretion ("wide margin of appreciation") when assessing whether such a scheme was necessary to ensure tax collection, it was not unlimited or beyond the Court's scrutiny. It had to be satisfied that the authorities, be they legislative, executive or judicial, had properly balanced individual and public interests, bearing in mind appropriate procedural safeguards.

The Court noted, however, that the 2003 Tax Administration Act had not required such weighing up of the competing interests at stake. Indeed, the Hungarian Tax Authority had had no discretion to review whether it was necessary to publish taxpayers' personal data. Where a tax debt had been outstanding for 180 days continuously, it was mandatory and systematic for the debtor to be identified by their name and home address on the list published on the Tax Authority's website.

The Court had to assess what lay behind the legislative choices of such a policy; of central importance when doing that was the quality of the parliamentary review. It noted that the preparatory works to the legislative amendment in 2006 – namely section 55(5) – had not assessed the previous schemes and their likely effects on taxpayers' behaviour. Nor had they included any reflection as to why the measures under the previous schemes – notably section 55(3) – had been insufficient or what the additional value was of section 55(5).

Moreover, there was no evidence that Parliament had considered the impact of the section 55(5) publication scheme on the right to privacy, and the risk of misuse by the general public of the tax debtor's home address.

Nor had any consideration been given to the medium used, the Internet, to publish the data and its potential reach. Anyone worldwide with access to the Internet had unrestricted access to the information on each tax debtor on the list, with the risk of republication as a natural, probable and foreseeable consequence.

Lastly, data protection considerations had featured little, if at all, in the preparation of the 2006 legislative amendment.

In short, the Court was not satisfied that the reasons relied on by the Hungarian legislature in enacting the section 55(5) publication scheme, although relevant, had been sufficient to show that the interference complained of had been "necessary in a democratic society" and that the authorities had struck a fair balance between the competing individual and public interests at stake.

Just satisfaction (Article 41)

The Court held, by 16 votes to 1, that the finding of a violation was in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant. It further held, by 15 votes to 2, that Hungary was to pay the applicant EUR 20,000 in respect of costs and expenses.

Separate opinions

Judge Kūris expressed a concurring opinion, while Judge Serghides expressed a partly concurring and partly dissenting opinion. Judges Wojtyczek and Paczolay expressed a joint dissenting opinion.

The judgment is available in English and French.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR_CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

echrpess@echr.coe.int | tel.: +33 3 90 21 42 08

We would encourage journalists to send their enquiries via email.

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Denis Lambert (tel.: + 33 3 90 21 41 09)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Neil Connolly (tel.: + 33 3 90 21 48 05)

Jane Swift (tel.: + 33 3 88 41 29 04)

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.