



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

SECOND SECTION

CASE OF MOLNÁR-FULMER AND PINCEHELYI v. HUNGARY

(Application no. 21715/22)

JUDGMENT

STRASBOURG

28 April 2026

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

In the case of Molnár-Fulmer and Pincehelyi v. Hungary,

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

Oddný Mjöll Arnardóttir, *President*,

Péter Paczolay,

Hugh Mercer, *judges*,

and Dorothee von Arnim, *Deputy Section Registrar*,

Having regard to:

the application (no. 21715/22) against Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 25 April 2022 by two Hungarian nationals, Mr Gergely Molnár-Fulmer and Ms Zita Éva Pincehelyi (“the applicants”), who were born in 1991 and 1976, live in Pereked and Pécs respectively, and were represented by Ms I. Bieber, a lawyer practising in Budapest and acting on behalf of the Hungarian Helsinki Committee;

the decision to give notice of the application to the Hungarian Government (“the Government”), represented by their Agent, Mr Z. Tallódi, of the Ministry of Justice;

the parties’ observations;

Having deliberated in private on 24 March 2026,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the search of the applicants’ homes carried out by the police on 20 October 2021.

2. The applicants are opposition politicians. On 23 July 2021 they covered with stickers some billboards advertising a national consultation campaign initiated by the Government against “sexual propaganda”. On 24 July 2021 the Pécs Police Department opened investigations into vandalism against unknown perpetrators. The police department established that the applicants had been caught on CCTV damaging a billboard at Kórház tér between 21:57 and 22:30 on 23 July 2021.

3. On 20 October 2021 both applicants were questioned as suspects of vandalism causing minor damage under Article 371(1)-(2a) of Act no. C of 2012 on the Criminal Code. They were suspected of having damaged altogether six billboards from 16 to 24 July 2021. The police department ordered the search of their flats, as well as the IT systems and data carriers located therein, if any, as there were reasonable grounds to believe that further objects linked to the offence could be obtained. The searches were carried out the same day at the applicants’ homes, lasting ten and eight minutes, respectively. The police did not find any material to be seized as evidence.

4. The applicants objected to the searches. The Pécs Public Prosecutor's Office dismissed their complaint based on the evidence obtained by the police via the CCTV recordings. In their ensuing petition for judicial review the applicants challenged the lawfulness of the search order, in particular on the ground that there was no criminal offence to investigate from the outset, given that the value of the property damage caused remained within the realm of regulatory offences rather than criminal law.

5. On 21 December 2021 the Pécs District Court held that the search measure was lawful and justified in terms of Articles 302(1)-(2), 303(1) and 304(1)-(2) of Act no. XC of 2017 on the Code of Criminal Procedure (hereinafter referred to as 'the CCP'). Those provisions, to the extent that they were relevant to the case, read as follows:

Section 302

"1. Search means searching a home, other premises, fenced area, or vehicle for the purpose of conducting criminal proceedings successfully. The search may also include searching an information system or a data-storage medium.

2. A search may be ordered if it is reasonable to assume that it leads to ...

c) the discovery of a means of evidence, ..."

Section 303

"1. A search may be ordered by the court, prosecution service, or investigating authority. ... "

Article 304

"1. A decision ordering a search shall specify the purpose of the search and the facts supporting the order of the search.

2. If possible, the decision ordering a search shall specify the person, means of evidence, object that may be subject to confiscation or forfeiture of assets, information system, or data storage device to be found during the search."

6. Notwithstanding, the criminal proceedings were discontinued on the same day, and the applicants were reprimanded for their actions by the Pécs District Public Prosecutor's Office. Upon the applicants' complaint to the effect that no criminal offence had been committed and their admission to having used stickers to cover two billboards (one at Kórház tér), the Baranya County Public Prosecutor's Office remitted the case.

7. In the resumed proceedings, on 11 March 2022 the District Public Prosecutor's Office terminated the criminal proceedings. It held that no criminal offence had been committed, given that the damage caused to the two billboards did not reach the statutory threshold required to engage the applicants' liability under criminal law.

8. The applicants complain that the search of their homes violated their rights protected by Article 8 of the Convention.

THE COURT’S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

A. Admissibility

9. The Government submitted that the Court should declare the application inadmissible for failure to exhaust domestic remedies since the applicants had not lodged a constitutional complaint to challenge the final court decision before the Constitutional Court. The Government further argued that the application was inadmissible under Article 35 § 3 (b) of the Convention because the applicants had suffered no significant disadvantage. The applicants disagreed.

10. The Court reiterates that under Article 35 § 1 of the Convention, it may only deal with an application after the exhaustion of domestic remedies. An applicant is required to make normal use of remedies which are available and sufficient in respect of his or her Convention grievances (see *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, § 71, 25 March 2014). It is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy advanced by them was an effective one, available in theory and in practice at the relevant time (see *Vučković and Others*, cited above, § 77).

11. Section 27 of Act no. CLI of 2011 on the Constitutional Court provides for a right to lodge a constitutional complaint if the grievance occurred as a result of court rulings allegedly contrary to the Fundamental Law where the ruling on the merits of the case or another ruling closing the court proceedings violates the complainant’s right enshrined in the Fundamental Law (see for the wording of the relevant provision *Szalontay v. Hungary* (dec.), no. 71327/13, § 22, 12 March 2019). However, in the present case the Government have not argued or demonstrated that the Pécs District Court’s ruling of 21 December 2021 was a decision on the merits of the case or a decision closing the court proceedings and thus satisfied the conditions laid down in that provision. According to the Constitutional Court’s case-law, referred to also by the applicants, judicial decisions on the application of coercive measures in the pre-trial investigation phase of criminal proceedings do not satisfy either of the above conditions (see the Constitutional Court decisions no. 3036/2013. (II.12.) and no. 3025/2021. (I.28.), among other authorities). Consequently, the Government have not demonstrated that a constitutional complaint was an effective remedy in the circumstances of the case. The Court therefore rejects the Government’s objection.

12. The relevant principles as regards the criterion of no significant disadvantage, within the meaning of Article 35 § 3 (b) of the Convention, have been recently summarised, *inter alia*, in *X and Others v. Ireland*

(nos. 23851/20 and 24360/20, §§ 63-65, 22 June 2023). The Court notes that, in the applicants' view, the matter concerned a question of principle, namely the allegedly unlawful house searches which have not resulted in any seizure of property or other interference with their assets for having expressed their political opinion. As to what was objectively at stake in the case, it concerned the existence of effective procedural safeguards under Hungarian law in respect of the search of one's home, therefore an important question of principle both in domestic law and in Convention law (compare also *Brazzi v. Italy*, no. 57278/11, §§ 26-29, 27 September 2018). The Court concludes that the first condition of inadmissibility in Article 35 § 3 (b) of the Convention, namely that the applicants had not suffered a significant disadvantage, was not met and therefore the Government's related objection must be dismissed.

13. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

14. The applicants complained that the search of their homes had been ordered without any reasonable ground to suspect that criminal offences had been committed rather than regulatory ones. They noted that the rules governing regulatory offences do not permit the search of a suspect's home. They argued that the Pécs Police Department had ordered the search of their property in the absence of prior or sufficiently counterbalancing *ex post facto* judicial review. They considered that the broadly worded search orders, authorising even the inspection of their telephones and laptops, led to a disproportionate interference with their rights.

15. The Government submitted that the ordering of the search operation by Pécs Police Department had complied with Articles 302, 303 and 304 of the CCP and the wording of the search orders was sufficiently precise. In any event, the Government considered that in a significant number of cases, like the present one, the person or object to be searched could not be identified with certainty at the time of ordering of the measure. Furthermore, in the Government's view, the brevity of the search operation was indicative of a necessary and proportionate interference.

16. The general principles concerning the lawfulness and proportionality of house searches and, in particular, the necessity of sufficient procedural safeguards in the context of house searches carried out in pre-trial investigations have been summarised in the cases of *Modestou v. Greece* (no. 51693/13, §§ 42-43, 16 March 2017), *Brazzi* (cited above, §§ 39-45), *Bostan v. the Republic of Moldova* (no. 52507/09, §§ 21-31, 8 December 2020) and, recently, in the case of *Korniyets and Others v. Ukraine* (nos. 2599/16 and 2 others, §§ 57-74, 10 July 2025).

17. It is not disputed by the parties that the search of the applicants' homes amounted to an interference with their right to respect for their "home". The Court sees no reason to hold otherwise.

18. To be justified under Article 8 § 2 of the Convention, an interference has to be in accordance with law, to pursue a legitimate aim and to be necessary in a democratic society.

19. Regarding lawfulness, the Court notes that the Pécs District Court found the search measure, based on Articles 302(1)-(2), 303(1) and 304(1)-(2) of the CCP, was lawful under domestic law (see paragraph 5 above). It further observes that the parties disagreed on whether the applicants had benefited from adequate and sufficient guarantees provided by the domestic law against arbitrariness. It appears that the house searches were ordered by the police without a prior judicial authorisation (compare *Modestou*, cited above, §§ 47-48; and *Brazzi*, cited above, §§ 42-43).

20. The Court reiterates in that respect that the absence of a judicial control of searches *ex ante* can be counterbalanced by a possibility for the person concerned to have access to an effective *ex post facto* control on the factual and legal issues regarding the impugned search and the manner in which it was conducted (see *Brazzi*, cited above, § 44).

21. The Court notes that the applicants had raised an objection to the lawfulness of these searches in view of the low-value property damage caused to the billboards, contesting the applicability of substantive and procedural criminal law (see paragraph 4 above). The Court observes that the Pécs District Court had failed to examine this point of appeal and essentially reproduced the prosecution's initial submissions (compare and contrast *Bostan*, cited above, § 28; and *Korniyets and Others*, cited above, § 71). The Court agrees with the submission of the applicants that they had not benefitted from an efficient *ex post facto* review of the lawfulness of the house searches, and notably of the existence of a suspicion that they had committed an act constituting a criminal (as opposed to a regulatory) offence which could have justified the impugned searches. It notes in that context that the Pécs District Public Prosecutor's Office finally confirmed on 11 March 2022, on the basis of an identical body of evidence with particular importance given to the CCTV recording and the applicants' admission of guilt in respect of two damaged billboards, that the applicants had not committed a criminal offence as the damage did not reach the statutory threshold required to engage the applicants' liability under criminal law (see paragraph 7 above) (compare also, in the context of Article 11, *mutatis mutandis*, *Patyi v. Hungary*, no. 35127/08, § 25, 17 January 2012).

22. The Court further considers that adequate and sufficient guarantees under domestic law against arbitrariness were all the more important in a context like the present case, in which the search orders of the Pécs Police Department were very broad and did not contain reasons why it was considered that the search of the applicants' houses – and especially the

authorisation to examine also data carriers – would enable the police to obtain further relevant evidence to support the suspicion that the applicants had committed vandalism.

23. The foregoing considerations are sufficient to enable the Court to conclude that the applicants were deprived of adequate and effective safeguards against arbitrariness contrary to requirements of Article 8 of the Convention (compare also *Korniyets and Others*, cited above, §§ 71-72).

24. The Court finds that the interference in question was not “in accordance with the law”. It is therefore not necessary to embark on an examination of its legitimate aim or necessity in a democratic society.

25. There has accordingly been a violation of Article 8 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

26. The applicants claimed 5,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,500 in respect of costs and expenses incurred before the Court.

27. The Government considered these claims excessive.

28. The Court considers that the applicants must have sustained non-pecuniary damage which cannot be sufficiently compensated by the finding of a violation. Ruling on an equitable basis, the Court considers it reasonable to award EUR 2,600 in respect of non-pecuniary damage to each of the applicants, plus any tax that may be chargeable.

29. 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 them the sum of EUR 2,000 jointly covering costs incurred before the Court, plus any tax that may be chargeable to the applicants.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 8 of the Convention in respect of both applicants;
3. *Holds*
 - (a) that the respondent State is to pay the applicants, 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 2,600 (two thousand six hundred euros) to each of the applicants, plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 2,000 (two thousand euros) jointly to the applicants, plus any tax that may be chargeable to the applicants, 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;
4. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 28 April 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim
Deputy Registrar

Oddný Mjöll Arnardóttir
President