



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

FOURTH SECTION

**CASE OF NAGY v. HUNGARY**

*(Application no. 61940/13)*

JUDGMENT

STRASBOURG

30 October 2018

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



**In the case of Nagy v. Hungary,**

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

Paulo Pinto de Albuquerque, *President*,

Egidijus Kūris,

Iulia Antoanella Motoc, *judges*,

and Andrea Tamietti, *Deputy Section Registrar*,

Having deliberated in private on 9 October 2018,

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

**PROCEDURE**

1. The case originated in an application (no. 61940/13) 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 Tamás Nagy (“the applicant”), on 22 September 2013.

2. The applicant was represented by Mr G.C. Veress, a lawyer practising in Budapest. The Hungarian Government (“the Government”) were represented by Mr Z. Tallódi, Agent, Ministry of Justice.

3. On 7 December 2016 the applicant’s complaint under Article 1 of Protocol No. 1 to the Convention concerning the imposition of 98% tax on part of his severance payment was communicated to the Government and the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

**THE FACTS**

4. The applicant was born in 1972 and lives in Győr.

5. The applicant was employed at a State-owned institution from 1 July 2007 until 21 June 2010. Upon termination, a certain part of his severance payment was taxed at 98% in the amount of HUF 5,051,012 (approximately EUR 16,800). The employer had deducted HUF 2,094,624 as special tax. Despite his statutory obligation, the applicant failed to pay the remaining special tax.

6. The National Tax Authority carried out a tax audit for the year 2010. As the result of the audit, the authority required the applicant to pay HUF 2,569,831 as outstanding special tax and 10 percent tax penalty. The applicant challenged the decision before the Győr Administrative and Labour Court. The court found the decision lawful but quashed the tax penalty.

7. Tax enforcement proceedings are currently being pursued against the applicant in respect of the outstanding special tax and late payment interests. Until May 2017 HUF 615,238 (approximately EUR 2,000) were collected from the applicant.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

8. The applicant complained that the imposition of 98% tax on part of his remuneration due on termination of his employment had amounted to a deprivation of property in breach of Article 1 of Protocol No. 1 to the Convention.

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

10. The Court observes that virtually identical circumstances gave rise to a violation of Article 1 of Protocol No. 1 in the case of *R.Sz. v. Hungary* (no. 41838/11, §§ 54-62, 2 July 2013), and is satisfied that there is no reason to hold otherwise in the present application.

It follows that there has been a violation of Article 1 of Protocol No. 1.

### II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

11. The applicant claimed HUF 69,887,374 (approximately EUR 233,000) in respect of pecuniary and non-pecuniary damage combined.

The Government argued that the applicant's claims were excessive.

12. Having regard to the fact that the applicant complied only partly with his special tax payment obligation, that the tax enforcement proceedings are still being pursued against him and that in the absence of the 98% special tax rate the applicant's severance payment would have been in all likelihood subject to the general personal income taxation, the Court awards the applicant EUR 9,000 in respect of pecuniary and non-pecuniary damage combined.

13. The applicants made no costs claim. It is therefore not necessary to rule on the matter.

14. 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 1 of Protocol No. 1 to the Convention;
3. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months, EUR 9,000 (nine thousand euros), plus any tax that may be chargeable, in respect of pecuniary and non-pecuniary damage, to be converted into Hungarian forints at the rate applicable at the date of settlement; and
  - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount 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 applicant's claim for just satisfaction.

Done in English, and notified in writing on 30 October 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti  
Deputy Registrar

Paulo Pinto de Albuquerque  
President