



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

Published on 3 August 2026

SECOND SECTION

Applications nos. 41330/23 and 2407/24
NITROGÉNműVEK ZRT. against Hungary
and DUNA-DRÁVA CEMENT KFT. against Hungary
lodged on 17 November 2023 and 5 January 2024 respectively
communicated on 3 July 2026

SUBJECT MATTER OF THE CASE

The applications concern the allegedly excessive burden sustained by the applicant companies through new taxes imposed on their carbon dioxide emission allowances that they receive under the EU Emission Trading System.

On 17 July 2023 the Government adopted Decree no. 320/2023. (VII.17.) introducing a new tax on operators of installations receiving significant free CO₂ emission allowances (hereinafter “quota tax”). Furthermore, the Decree ordered that a certain transaction fee on the emission allowance transfer was to be paid. It entered into force on 20 July 2023. No transitional period applied; rather, the Decree was enacted with retroactive effect as for the calendar year of 2023.

The applicants are companies which have been running their businesses on nitrogen fertiliser and building materials for decades. Until the introduction of the present applications, they paid the relevant tax for the first three quarters of 2023, amounting to 8.3 billion Hungarian forints (HUF) (approximately 22 million euros (EUR)) and HUF 6.2 billion (EUR 16.4 million), respectively.

According to the public annual accounts of the applicant companies for the financial year 2023, the quota tax expense of Nitrogénművek Zrt. reached HUF 9.8 billion (EUR 25 million), whereas its negative operating profit amounted to HUF 13.7 billion (EUR 35 million). For the same year, Duna-

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DRÁVA CEMENT KFT. v. HUNGARY – SUBJECT MATTER OF THE CASE AND
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Dráva Cement Kft. paid an amount of HUF 7.8 billion (EUR 20 million) as quota tax as opposed to its negative operating profit of HUF 572 million (EUR 1.5 million).

The applicant companies argue under Article 1 of Protocol No.1 to the Convention that the Decree served no general interest but had a confiscatory nature by which they had to bear a disproportionate and excessive financial burden. Furthermore, they complain that the Decree was not provided for by law as it lacked any impact assessment, was adopted without any parliamentary control, constituted targeted legislation and entered into force swiftly and with retroactive effect. Finally, they argue that there were no procedural safeguards to protect them from the measure.

QUESTIONS TO THE PARTIES

1. Have the applicants been deprived of their possessions or subjected to control of use of their possessions within the meaning of Article 1 of Protocol No. 1?

2. In the affirmative, has the impugned measure been in accordance with the conditions provided for by law, in particular in view of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC?

3. Has that interference been necessary to secure the payment of taxes or other contributions?

4. Has that deprivation or control of use imposed an excessive individual burden on the applicants (see *Immobiliare Saffi v. Italy*, [GC], no. 22774/93, § 59, ECHR 1999-V)?