



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

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SECOND SECTION

Applications nos. 40860/23 and 41967/23
Krisztina Szilvia KISS against Hungary
and Márton Áron BELLA and Richard BELLA against Hungary
lodged on 9 November 2023
communicated on 17 August 2026

SUBJECT MATTER OF THE CASE

The applications concern the failure by the courts to examine a claim for interest concerning seized cash due to the conflicting competence of civil and criminal jurisdictions.

In 2006, a significant amount of cash was seized from the applicants (or their predecessor) in the same criminal proceedings on charges of customs smuggling and other offences. In 2016 and 2021, respectively, the competent courts ordered the return of the seized amount to the applicants. Subsequently, on the basis of decree no. 11/2003. (V.8.) (“the Decree”), the applicants instituted proceedings for the payment of interest (equalling approximately to a total amount of 61 million Hungarian forints (HUF) (163,000 euros (EUR)) and HUF 25 million (EUR 81,000), respectively) on the seized cash as follows.

In application no. 41967/23, on 2 May 2018 the civil court dismissed the applicants’ action for want of competence, holding that the case was not of a civil nature. Their subsequent request lodged with the criminal court was to no avail either. The criminal court found that such a claim was to be enforced in civil contentious proceedings. Therefore, the applicants lodged yet another civil action. Following the lower courts’ dismissal of their action, the *Kúria* established the civil courts’ competence and remitted the case to the first instance court.

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In the meantime, the Attorney General, being one of the respondents in the case, initiated “uniformity” proceedings before the *Kúria* for it to decide on the competent court to hear interest claims made under the Decree. In its decision no. 1/2022 BJE of 28 March 2022, the *Kúria* held that any such claim was to be enforced before the criminal courts. Furthermore, if the criminal authorities had failed to decide on the payment of interest, a claim for liability for the inaction of the public authorities could be submitted to a civil court. Relying on the uniformity decision, on 1 December 2022 the Balassagyarmat High Court quashed the first instance civil court judgment and terminated the proceedings.

In application no. 40860/23, the applicant’s civil action was discontinued with reference to the *Kúria*’s uniformity decision, on 10 August 2022. Subsequently, the Budapest Court of Appeal upheld the ruling.

On 4 July 2023 the Constitutional Court dismissed the applicants’ respective constitutional complaints. The decisions were served on 11 July 2023.

The applicants complain that the divergence of the case-law and ultimately the *Kúria*’s uniformity decision deprived them of the interest due. The course of action taken by the domestic courts was not foreseeable and, given the particularities of the uniformity application, the principle of equality of arms was not respected, rendering the procedure unfair. They relied on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicants’ peaceful enjoyment of possessions, within the meaning of Article 1 of Protocol No. 1, given that the applicants were not paid any interest on the seized cash due to a conflict of court competence (see, *mutatis mutandis*, *Hunguest Zrt v. Hungary*, no. 66209/10, §§ 22-33, 30 August 2016)? If so,

1.1. Was that interference subject to conditions provided for by law and did it pursue the public interest? In particular, was the civil courts’ lack of competence foreseeable in the applicants’ cases (see, in the context of Article 6, *Jurić v. Croatia*, no. 51771/21, §§ 51-72, 7 May 2026)?

1.2. Did that interference impose an excessive individual burden on the applicants (see *Immobiliare Saffi v. Italy*, [GC], no. 22774/93, § 59, ECHR 1999-V)?

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APPENDIX

No.	Application no.	Case name	Lodged on	Applicant Year of Birth Place of Residence	Represented by
1.	40860/23	Kiss v. Hungary	09/11/2023	Krisztina Szilvia KISS 1972 Budapest	Vince KOVÁCS
2.	41967/23	Bella v. Hungary	09/11/2023	Márton Áron BELLA 1998 Budapest Richárd BELLA 1991 Pécs	Vince KOVÁCS