



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

FIFTH SECTION

CASE OF M.C. v. HUNGARY

(Application no. 32317/23)

JUDGMENT

STRASBOURG

1 October 2026

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

In the case of M.C. v. Hungary,

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

María Elósegui, President,

Gilberto Felici,

Diana Sârcu, *judges*,

and Sophie Piquet, Acting Deputy Section Registrar,

Having regard to:

the application (no. 32317/23) against Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 24 July 2023 by a Serbian national, Mr M.C. (“the applicant”), who was born in 1978 and lived in Jászapáti at the material time, and was represented by Ms E. Kadlót, a lawyer practising in Budapest;

the decision to give notice of the complaints concerning Articles 8 and 13 of the Convention to the Hungarian Government (“the Government”), represented by their Agent, Mr Z. Tallódi, of the Ministry of Justice, and to declare the remainder of the application inadmissible;

the decision not to disclose the applicant’s name;

the parties’ observations;

the decision of the Serbian Government not to exercise its right to intervene in the proceedings (Article 36 § 1 of the Convention);

Having deliberated in private on 10 September 2026,

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

SUBJECT MATTER OF THE CASE

1. The application concerns whether the dismissal of the applicant’s request for the renewal of his residence permit for employment purposes on grounds of national security and his simultaneous expulsion from Hungary to Serbia were attended by sufficient procedural safeguards as required under Article 8 of the Convention.

2. The applicant is a Serbian national who had been residing in Hungary since 2010 for employment purposes.

3. On 22 February 2022 the applicant lodged a request for a residence permit for the purposes of employment.

4. On 25 April 2022 the National Directorate-General for Aliens Policing (hereinafter “NDGAP”) dismissed his application on the ground that the applicant’s residence posed a threat to public safety of Hungary on the basis of the opinion of the Jász-Nagykun-Szolnok police department. Following an appeal by the applicant, on 7 July 2022 the NDGAP, acting at second instance, quashed the first-instance decision, finding that, on the basis of a

police opinion obtained in the appeal proceedings, the applicant did not constitute a risk, and remitted the case.

5. On 13 October 2022, in the resumed proceedings, the NDGAP dismissed the applicant's application and expelled him to Serbia. It held in its decision that the conditions of a residence permit, in particular with regard to the applicant's employment, housing, sufficient means to sustain his residence and health insurance, had been met. Nonetheless, the Constitution Protection Office (*Alkotmányvédelmi Hivatal* – hereinafter “the CPO”) established, in its opinion of 27 September 2022, that the applicant posed a threat to national security. The NDGAP therefore dismissed the applicant's request on the basis of the relevant provisions of sections 13(1)(h) and 18(1)(a) of Act no. II of 2007 on the admission and right of residence of third-country nationals (hereinafter “the Immigration Act”). The underlying information contained in the CPO's assessment was classified, in accordance with Act no. CLV of 2009 on the protection of classified information (hereinafter “the Classified Information Act”).

6. The applicant lodged an appeal against that decision. In the appeal proceedings, the CPO maintained its findings concerning the national security risk. Relying on that assessment, the NDGAP, acting at second instance, emphasised that, given the CPO's opinion, the consideration of any other conditions was excluded.

7. Subsequently, the applicant sought judicial review. On 5 April 2023 the Debrecen High Court dismissed his action. It held, in so far as relevant, that the NDGAP was not bound by the CPO's assessment. Nevertheless, for want of any circumstances that might have suggested otherwise, it based its decision exclusively on that. At the same time, it explained that there was no opportunity for the consideration of the applicant's personal circumstances, given that in the event of the existence of a national security risk, the rejection of the residence permit request was compulsory. In this regard it noted that such national security risk had been established by the CPO. The trial judge consulted the classified documents and confirmed the CPO's assessment.

8. On 20 June 2023 the *Kúria* declared the applicant's petition for judicial review inadmissible. The applicant did not lodge a constitutional complaint with the Constitutional Court.

9. In the meantime, the applicant requested access to the CPO's classified report under the Classified Information Act. Nevertheless, on 11 November 2022 the CPO rejected his application. It appears that his request for judicial review was to no avail.

10. The relevant domestic and EU law and practice have been set out in *Trapitsyna and Isaeva v. Hungary* (no. 5488/22, §§ 25-36, 19 September 2024), and *Demirci v. Hungary* (no. 48302/21, §§ 21-23, 6 May 2025).

11. In addition, in accordance with section 13(1)(h) of the Immigration Act, a third-country national may enter Hungary for a stay exceeding 90 days within a period of 180 days, and may stay in Hungary for a period exceeding

90 days within a period of 180 days, if his or her entry or stay does not pose a danger to national security in Hungary. Furthermore, as per section 18(1)(a), failure to meet the above condition will lead to the refusal of the issuance or extension of a residence permit or the revoking of an issued residence permit.

12. In constitutional complaint proceedings in unrelated cases, the Constitutional Court found that the question whether the concerned individual's presence in Hungary had constituted a threat to national security could not be reassessed as part of constitutional proceedings, since this would have amounted to a re-examination of the facts (see decision no. 3439/2021. (X. 25.) AB of 5 October 2021 in *Trapitsyna and Isaeva*, cited above, § 18). It considered that that task pertained to the ordinary court's competence (see decision no. 3457/2021. (XI. 3.) AB of 19 October 2021; decision no. 3438/2021. (X. 25.) AB of 5 October 2021; and decision no. 3440/2021. (X. 25.) AB of 5 October 2021).

13. Furthermore, the Constitutional Court held that it could not review the matter of access to classified information and the related procedural questions, as those had not been subject to the immigration proceedings concerned by the constitutional complaint (see decision no. 3440/2021. (X. 25.) AB of 5 October 2021, and decision no. 3417/2020. (XI. 26.) AB of 10 November 2020).

14. The applicant complained under Article 8 of the Convention that for want of any connection with his country of origin, his expulsion had violated his right to respect for his private life. He further complained that he had been expelled without being afforded sufficient procedural guarantees. Relying on Article 13 of the Convention, he submitted that, without access to the grounds of the alleged national security risk, he had had no effective remedy against the expulsion decision.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

15. Relying on Articles 8 and 13 of the Convention, the applicant complained that his right to respect for his private life and to an effective remedy had been breached by the decision refusing his residence permit application and expelling him to Serbia.

16. In the light of the Court's case-law in relation to matters of the kind in issue in the present case (see, for instance, *Gaspar v. Russia*, no. 23038/15, §§ 51-52, 12 June 2018), and in view of the way in which the applicant formulated his complaints, it falls to be examined solely under Article 8 of the Convention.

A. Admissibility

17. The Government, referring to *Szalontay v. Hungary* ((dec.), no. 71327/13, 12 March 2019), argued that the application was inadmissible on account of the applicant's failure to lodge a constitutional complaint.

18. With reference to certain Constitutional Court decisions (*inter alia*, no. 3457/2021. (XI. 3.) AB of 19 October 2021, and no. 3438/2021. (X. 25.) AB of 5 October 2021; see in paragraph 12 above), the applicant argued that a constitutional complaint would have been ineffective in his case, given that the Constitutional Court had systematically rejected any such complaints in similar cases.

19. The general principles on the exhaustion of domestic remedies are set out in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-77, 25 March 2014).

20. In *Szalontay* (cited above), the Court considered a constitutional complaint under section 26(1) and/or section 27 of Act no. CLI of 2011 on the Constitutional Court to be an effective remedy generally to be exhausted for the purposes of Article 35 § 1 of the Convention in situations where the application concerned Convention rights equally protected by the Fundamental Law of Hungary (*ibid.*, § 34). Furthermore, it is observed that the right to respect for private life under Article 8 is enshrined in Article VI of the Fundamental Law. Thus, it is for the applicant to show that in the light of the approach taken by the Constitutional Court in similar cases, a constitutional complaint against the impugned measure was ineffective in the circumstances of the case (see *Scordino v. Italy* (dec.), no. 36813/97, 27 March 2003, and *Pressos Compania Naviera S.A. and Others v. Belgium*, no. 17849/91, §§ 26-27, 20 November 1995).

21. It appears from the Constitutional Court's case-law (see paragraphs 12 and 13 above), as referenced by the applicant (see paragraph 18 above; compare and contrast the arguments put forward in *A.G. v. Hungary*, no. 10102/24, § 10, 30 April 2026), and obtained *proprio motu* by the Court that the Constitutional Court has consistently declared complaints inadmissible without an examination on the merits in comparable cases, where the immigration authority's decision had been based on a non-disclosed assessment or recommendation of the CPO. The Constitutional Court found that the question as to whether the petitioner was a national security threat was a matter of fact, not susceptible to constitutional review. The issue of access to classified information and the related procedural safeguards were not addressed in those proceedings (see paragraphs 12 and 13 above).

22. Furthermore, the Court observes that the Government have not put forward any relevant arguments concerning the applicant's submissions with regard to ineffectiveness of the complaint proceedings before the

Constitutional Court (contrast *Chokov v. Bulgaria* (dec.), no. 73896/16, §§ 35-38, 10 September 2024).

23. The Court therefore considers that the proceedings before the Constitutional Court, while normally available and effective concerning Article 8 complaints, would not have offered a reasonable prospect of success in the particular circumstances of the present case (see, *mutatis mutandis*, *Carson and Others v. the United Kingdom* [GC], no. 42184/05, § 58, ECHR 2010). The application cannot therefore be rejected for non-exhaustion of domestic remedies.

24. In view of the foregoing, the Court notes that this complaint 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

25. The Court discerns that the refusal of the applicant's request for a residence permit and his simultaneous expulsion constituted an interference with his right to respect for his private life (see, *mutatis mutandis*, *Trapitsyna and Isaeva*, cited above, §§ 64-65).

26. The general principles concerning procedural safeguards with regard to measures taken on grounds of national security in respect of aliens have been summarised in *Mirzoyan v. the Czech Republic* (nos. 15117/21 and 15689/21, §§ 81-85, 16 May 2024), and in the context of Hungary in *Trapitsyna and Isaeva* (cited above, §§ 53-62).

27. It has not been disputed by the parties that the CPO's assessment, which served as the basis for the NDGAP's decision to refuse the applicant's request and simultaneously expel him, was classified. It has also not been disputed that neither the applicant nor his lawyer was given any opportunity to consult any documents relating to the CPO's assessment within the course of either the immigration proceedings or the access to information proceedings (see paragraph 9 above concerning the access to information proceedings; see the relevant findings in *Trapitsyna and Isaeva*, cited above, § 76). Nor was the applicant provided with an outline of the national security case against him or a summary of the content of any classified document in his case (see paragraphs 5-9 above; compare *Mirzoyan*, cited above, § 92). Such circumstances constituted a significant limitation of the applicant's right to be informed of the factual elements. It follows that he was unable to challenge the CPO's assertions before the authorities by providing exonerating evidence or an explanation (see, *mutatis mutandis*, *Mirzoyan*, cited above, §§ 87-89, and, *mutatis mutandis*, *Trapitsyna and Isaeva*, cited above, §§ 72-73).

28. The foregoing resulted in a significant limitation of the applicant's procedural rights, which had to be mitigated by appropriate counterbalancing safeguards (see *Mirzoyan*, cited above, § 89).

29. It is true that the Budapest High Court had the requisite independence and the right to access the confidential documents in the proceedings. Nevertheless, by failing to make any reference to the evidential basis for its findings or give an explanation as to whether and how the authorities had been able to demonstrate the existence of the specific facts justifying the national security threat, its review was purely formal. It follows that the applicant was not provided with appropriate safeguards counterbalancing the interference with his procedural rights (see, *mutatis mutandis*, *Trapitsyna and Isaeva*, cited above, §§ 79-80). In view of the above-mentioned considerations, the Court concludes that the applicant was not afforded appropriate and sufficient procedural safeguards.

30. Moreover, contrary to the Government's argument, neither the NDGAP nor the Debrecen High Court took into account any circumstances concerning the applicant's private life. In particular, the Debrecen High Court held that the applicant's personal circumstances could have no bearing on the NDGAP's decision on account of the existence of a national security risk (see paragraphs 5-7 above). Consequently, the domestic authorities failed to give sufficient consideration to the applicant's private life and to carry out a balancing of the relevant interests at stake (see, *mutatis mutandis*, *Trapitsyna and Isaeva*, cited above, §§ 77-78).

31. In view of the above-mentioned considerations, the Court concludes that the interference with the applicant's right to respect for his private life has not been shown to have been necessary in a democratic society.

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

APPLICATION OF ARTICLE 41 OF THE CONVENTION

33. The applicant claimed just satisfaction for his grievances, without specifying any amount, and 5,000 euros (EUR) for the costs and expenses incurred before the domestic courts and the Court.

34. The Government contested those claims.

35. The Court reiterates that the general principles and established practice on the existence of a "claim" for just satisfaction are summarised in *Nagmetov v. Russia* ([GC], no. 35589/08, §§ 57-59, 30 March 2017).

36. It is true that the applicant did not claim a specific amount in respect of non-pecuniary damage. However, in his observations, submitted before the requisite deadline, when expressly invited to formulate his just satisfaction claims, he clearly asked the Court to award him "fair and equitable compensation" in respect of non-pecuniary damage. It cannot therefore be said that he failed to submit any claims in respect of non-pecuniary damage within the requisite deadline, in line with Rule 60 of the Rules of Court. The

Court reiterates that non-pecuniary damage does not lend itself to precise calculation and that any such claim need not always be quantified by the applicant. The Court thus accepts that the applicant must have suffered some non-pecuniary damage. Ruling on an equitable basis, the Court awards him EUR 5,200 in respect of non-pecuniary damage, plus any tax that may be chargeable.

37. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 5,000 covering costs under all heads for costs and expenses in the domestic proceedings and in the proceedings before the Court, plus any tax that may be chargeable to the applicant.

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;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, 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 5,200 (five thousand two hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 5,000 (five thousand euros), plus any tax that may be chargeable to the applicant, 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;

Done in English, and notified in writing on 1 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sophie Piquet
Acting Deputy Registrar

María Elósegui
President