



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

Published on 28 September 2026

SECOND SECTION

Application no. 10866/24
Béla KOVÁCS
against Hungary
lodged on 4 April 2024
communicated on 7 September 2026

SUBJECT MATTER OF THE CASE

The application concerns criminal proceedings in which the applicant was found guilty of, among other things, espionage against the institutions of the European Union under Article 261/A of the Criminal Code.

The applicant was a Member of the European Parliament between 2010 and 2019. In 2017 he was charged with espionage against the institutions of the European Union under Article 261/A of the Criminal Code (entered into force on 1 January 2014), fiscal fraud under Article 396 of the Criminal Code and forgery of documents under Article 345 of the Criminal Code.

According to the indictment the applicant disclosed protected information about certain policies and activities of European Union during 2012-2014 to a third country.

On 24 September 2020 the applicant was convicted of fiscal fraud and forgery of documents but acquitted of espionage by the Budapest Surrounding High Court. On appeal the Budapest Court of Appeal partly overturned the first instance judgment and convicted the applicant of preparation of espionage. Acting as a third-instance court, on 27 September 2022 the *Kúria* partly overturned the second-instance judgment and found the applicant guilty of having committed espionage. Part of the trial was held *in camera*, and while the operative part of judgment was pronounced publicly, the reasons for the judgment could only be accessed by the applicant's lawyer.

The applicant's constitutional complaint was rejected on 13 December 2023.

The applicant complains under Article 6 of the Convention that he was deprived of a fair trial. He alleges in particular that the hearing in his case was not public in all instances and the written grounds of the final judgment were not served on him and could only be consulted by his lawyer at the court's registry without the possibility of taking notes.

The applicant further complains under Article 7 of the Convention that the Criminal Code had been applied retroactively in his case, pointing out that he had been convicted of an offence of espionage against the institutions of the European Union, which apparently encompassed his conduct before that offence had been introduced into the law.

QUESTIONS TO THE PARTIES

1. Was the exclusion of the public in the present case “strictly necessary”, within the meaning of Article 6 § 1 of the Convention (see *Welke and Bialek v. Poland*, no. 15924/05, § 73-77, 1 March 2011; and *Belashev v. Russia*, no. 28617/03, § 83, 4 December 2008)?

The parties are invited to submit factual information clarifying from which part of the court hearings has the public been excluded in the criminal proceedings.

2. Has there been a violation of Article 6 of the Convention in view of the fact that the reasoning of the judgment of the *Kúria* could only be accessed by the applicant's lawyer?

3. Was the applicant's conviction for espionage against the institutions of the European Union in compliance with Article 7 of the Convention?

In particular, did the acts of which the applicant was convicted constitute a criminal offence under national law at the time when they were committed, as envisaged by Article 7 of the Convention (see *Kotlyar v. Russia*, nos. 38825/16 and 2 others, §§ 28-34, 12 July 2022, and *Rohlena v. the Czech Republic* [GC], no. 59552/08, §§ 50-53 and 55-56, ECHR 2015)?

4. The parties are invited to submit copies of all domestic decisions pertinent to the exclusion of the public from the court hearings.