


**Hungary, European Court of Human Rights, Miracle Europe Kft v. Hungary, no. 57774/13,
Judgment of 12 January 2016****Member State** Hungary**Topic**

Independence and impartiality

Deciding Court English translation

European Court of Human Rights

Registration N

Application no. 57774/13

Date Decision

12 January 2016

Subject Matter

In a compensation case, the court hearing the case was designated by the individual decision of the President of the National Office for the Judiciary (NOJ) which decision was not determined by any general and objective criteria. The ECtHR found that as a result of the discretionary reassignment of the case, the court was not a tribunal established by law and Article 6(1) was therefore violated.

Legal issue(s)

Case transfer, lawfulness of the allocation of a case to a court, tribunal established by law, right to a lawful judge, right to a fair hearing

National Law Sources

Act CLXI of 2011 on the Organisation and Administration of Courts

Decision no. 29/2012. (II.16.) of the President of the NOJ

Facts of the case

The case in which the applicant company brought an action for compensation against a university in relation to a public procurement proceeding was reassigned by the decision of the President of the National Office for the Judiciary (NOJ) from the originally competent court (Metropolitan Court) to another court with the same jurisdiction (Zalaegerszeg Regional Court). The Zalaegerszeg Regional Court acting as a first-instance court dismissed the applicant's claim, and the decision was upheld by the Pécs Regional Court of Appeal and also by the Curia in a review proceeding. The applicant also filed a constitutional complaint against the judgments of lower courts, but the Constitutional Court found the complaint inadmissible. The CC argued that the decision about reassigning the case has no bearing on the substantive outcome of the case, and the applicant failed to challenge the constitutionality of this particular decision on case transfer within the statutory timeframe. In the meantime, also in 2013, by Decision no. 36/2013. (XII.5.), the Constitutional Court, based on other complaints, found the laws on the power of the President of the NOJ to reassign cases unconstitutional. However, this decision did not affect the applicant case and situation.

The applicant turned to the ECtHR alleging the violation of Article 6(1) on the ground that as a result of the transfer of the case to the Zalaegerszeg Regional Court, the case was not heard by an independent and impartial tribunal “established by law”.

Reasoning (role of the Charter or other EU, ECHR related legal basis)

The ECtHR found that the case was not heard by a tribunal “established by law” and therefore the right to a fair hearing under Article 6(1) was violated. According to the reasoning of the ECtHR, the President of the NOJ had discretionary power to reassign cases and her decision was not based on any transparent, pre-determined and objective criteria. While the ECtHR stressed that establishing a balanced workload among courts and eliminating undue delays in the administration of justice can justify organisational measures, these measures must be based on verifiable criteria and cannot be tailored to one particular case. However, in the case concerned, the competence of the Zalaegerszeg Regional Court was established by an individual decision of the President of the NOJ. Furthermore, the President of the NOJ had extensive administrative powers within the judiciary, also over judicial careers and as she was elected by the Parliament, she could not be deemed as an organ of judicial self-government. All of these circumstances were capable of undermining the appearance of independence and impartiality of the court, and the requirements of foreseeability and certainty were not met either. The ECtHR also added that the legal basis for reassignment was found unconstitutional by the Hungarian Constitutional Court for reasons with which the ECtHR agreed. However, the fact that the decision on unconstitutionality did not entail adequate legal consequences in domestic law for those being in a similar position to the applicant can undermine the effective protection of Convention rights including Article 6(1).

[\(Link to\) full text](#)

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History of the case: (please note the chronological order of the summarised/referred national judgments.)

1. Decision no. 4.G.40.040/2012/16 of the Zalaegerszeg Regional Court
 2. Decision no. Pécsi Ítéltábla Gf.30343/2012/5 ;
 3. Decision no. 3123/2013 (VI. 24.) of the Constitutional Court
 4. Decision no. Pfv.21989/2012/6 of the Curia
 5. Miracle Europe Kft. v. Hungary, no. 57774/13, 12 January 2016
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