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La CEDU sull'impiego dell'*integrity test* in Ungheria
(CEDU, sez. II, sent. 3 febbraio 2026, ric. n. 15147/23 and 38303/23)

La sentenza in commento ha ad oggetto il c.d. *integrity test*, introdotto in Ungheria con l'obiettivo di combattere la corruzione e monitorare il rispetto degli obblighi professionali. I soggetti sottoposti a *integrity test* vengono posti in situazioni in cui è loro offerta l'opportunità di assumere decisioni inappropriate o non etiche. Possono essere adottate inoltre misure quali l'osservazione segreta di persone, luoghi o veicoli; la raccolta di informazioni su quanto avvenuto in tali luoghi e la registrazione di tali eventi mediante strumenti tecnici, come registrazioni video o audio.
Secondo la Corte, tali misure costituiscono delle interferenze con il diritto al rispetto della vita privata e familiare di cui all'art. 8 della CEDU, come tali giustificabili, ai sensi dell'articolo 8 § 2, solo se previste dalla legge, dirette a perseguire uno scopo legittimo e necessarie in una società democratica per il raggiungimento di tale scopo.
La Corte ha riconosciuto l'efficacia del metodo impiegato dalle autorità ungheresi per prevenire e per perseguire la corruzione, ma ha ritenuto che il quadro giuridico interno non rispettasse il requisito della "qualità della legge" e non fosse in grado di garantire che le interferenze con i diritti di cui all'art. 8 non eccedessero quanto strettamente "necessario in una società democratica". Le misure infatti potevano essere applicate nei confronti di tutti i dipendenti, senza necessità di motivare in merito a sospetti di corruzione.
È stata rilevata pertanto una violazione dell'articolo 8 della Convenzione.

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

SECOND SECTION

CASE OF XXX AND OTHERS v. HUNGARY

(Application nos. 15147/23 and 38303/23)

JUDGMENT
STRASBOURG
3 February 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case XXX and Others v. Hungary,

The European Court of Human Rights (Secondo Section), sitting as a Chamber composed of:
Arnfinn Bårdsen, *President*,
Saadet Yüksel,
Péter Paczolay,
Oddný Mjöll Arnardóttir,
Gediminas Sagatys,
Stéphane Pisani,
Juha Lavapuro, *judges*,
and Hasan Bakırcı, *Section Registrar*,
Having regard to:
the applications (nos. 15147/23 and 38303/23) against Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by four Hungarian nationals, OMISSIS ("the applicants"), on the various dates indicated in the appended table;
the decision to give notice to the Hungarian Government ("the Government") of the complaints concerning Article 8 of the Convention and to declare inadmissible the remainder of the applications;
the parties' observations;
Having deliberated in private on 16 December 2025,
Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The applications concern the "integrity testing" (*megbízhatósági vizsgálat*) of certain categories of State employees under Act no. XXXIV of 1994 on the Police ("the Police Act"). The stated aim of integrity testing is to combat corruption and monitor compliance with professional obligations by detecting wrongdoing. It involves undercover operations creating a real-life situation that places an employee, without his or her knowledge, in a monitored situation with an opportunity for inappropriate or unethical decision-making. These operations can also involve some forms of secret information gathering techniques as long as they do not require judicial authorisation. The applications raise an issue under Article 8 of the Convention.

THE FACTS

2. The first applicant, Mr Zoltán Szelényi, was born in 1970 and lives in Vácegres. The second applicant, B.A., was born in 1972 and lives in Budapest. The third applicant, Ms Erzsébet Laluska, was born in 1975 and lives in Szarvas. The fourth applicant, Ms Julianna Fedorkó, was born in 1964 and lives in Budapest. The first applicant was represented by Mr A. Litresits, while the second, third and fourth applicants were represented by Mr T. Hüttl, who are both lawyers practising in Budapest.
3. The Government were represented by their Agent, Mr Z. Tallódi, of the Ministry of Justice.
4. The facts of the cases may be summarised as follows.

I. THE CONTEXT

5. Integrity testing was introduced in Hungary in 2011 to combat corruption and to monitor the fulfilment of professional obligations established by law, employment contract or collective agreement. The procedure is governed by sections 7-7/D of the Police Act. It can be carried out by the National Protective Service ("the NPS"), the internal oversight body of the police responsible for crime prevention and crime detection, under the supervision of a prosecutor. During integrity testing, the NPS works undercover to create opportunities for impropriety that occur or could occur in the course of performing the job in question. It is entitled to use certain forms of secret information gathering which do not require judicial authorisation, such as the secret observation of people, dwellings, public places or vehicles, or the collection of information regarding the fact of communication by electronic devices and the identification or location of such devices, without having access to the content of the communications concerned. No disciplinary or regulatory offence proceedings can be brought on the basis of any unlawful conduct discovered during the procedure. However, if the NPS uncovers material giving rise to a suspicion that a crime has been committed it is obliged to inform the appropriate investigative authority.

6. Originally, the measure was targeted primarily at certain law enforcement agencies such as the police, prison service or the National Security Service. An amendment to the Police Act in 2020 (specifically to subsections 7(1)(b)(ba) and (bb)) effective from 1 January 2021 extended the scope of integrity testing to, among others, all employees of budgetary bodies (*költségvetési szervek*) under the direction or supervision of the Government or a member of the Government, and to healthcare professionals. Section 7(1)(b)(ba) of the Police Act was further amended with effect from 25 May 2022, restricting the scope of the measure to all employees of the ministry or any other organisation headed by the Minister of the Interior and to all employees of the budgetary bodies directed or supervised by the Minister of the Interior.

II. FACTS RELATED TO THE APPLICANTS

7. The first applicant is a medical doctor, specialised in traumatology, in a city hospital.

8. The second, third and fourth applicants were employed at different public institutions directed by the Minister of the Interior when the amendments to the Police Act adopted in 2020 and 2022 extending the scope of integrity testing to, among others, all employees of budgetary bodies managed or supervised by the Minister of the Interior, came into force. The second applicant worked as an expert at the Educational Authority, while the third and fourth applicants were civil servants, with the former working as an adoption counsellor and the latter as a child protection guardian (*gyermekvédelmi gyám*) at a child protection centre in Budapest.

9. In June 2021 the applicants (the first applicant alone and the second, third and fourth applicants jointly) asked the Constitutional Court to strike down the provisions of the Police Act which extended the scope of integrity testing to their situation, arguing that they violated their right to respect for private and family life.

10. The first applicant's complaint was dismissed on 29 November 2022 (decision no. 3484/2022 (XII.20.) AB) and that of the second, third and fourth applicants was dismissed on 6 June 2023 (decision no. 3313/2023 (VI.21.) AB).

11. At the outset, the Constitutional Court established that the applicants could claim to be personally and directly affected by the measures of which they had complained. First, they fell within the scope of the contested legislative provisions. Second, because of the secret nature of the

integrity testing the applicants could not know whether they had been targeted by it, including the secret intelligence gathering aspect of it, nor could they find out from any subsequent notification what means had been used against them during the integrity testing. The Constitutional Court also took into account the fact that there was no judicial or other legal remedy available to them to remedy the violation of their rights.

12. The Constitutional Court found that, in the case of the first applicant, the interference complained of served the legitimate aim of creating a transparent and corruption-free healthcare system, ensuring citizens' right to health and equal access to health services, curbing unlawful gratuity payments and creating transparency in public life. In the case of the second, third and fourth applicants, the Constitutional Court referred to the *amicus curiae* brief of the Minister of the Interior, according to which the legislature's intention had been to monitor compliance with obligations relating to conduct and activity, and with professional responsibilities related to the performance of public service and professional duties. In that case, the Constitutional Court found that the interference complained of served the legitimate aim of guaranteeing the right to a fair procedure in interactions with public authorities and ensuring transparency in public life.

13. As to the necessity of the impugned measure, the Constitutional Court considered that the tools of integrity testing – the "creation of real-life situations" during undercover operations and the covert surveillance – were the only means of making sure that medical professionals complied with the provisions prohibiting the acceptance of any gratuity payment. It reasoned similarly regarding civil servants: the verification that activities carried out in the service of the public were being performed without bias and in accordance with the rules of the relevant profession required the use of techniques and methods which, because of their nature, could only be properly employed by having undercover officers interact with subjects at work in real-life situations or by using secret means. The reason for that was that in both cases the parties involved had an interest in the secrecy of the act they were performing.

14. As to the proportionality of the measure, the Constitutional Court essentially held that the State enjoyed a large degree of freedom in determining the content of the employment relationship, having regard to the public work carried out by the employees, and might therefore impose additional requirements on them to ensure that the public work was performed lawfully and impartially. The activity of healthcare professionals was also governed by public law as their status had been changed by Act no. C of 2020 on Healthcare Service Relationship, with the change being effective from 1 March 2021. From that date on, the healthcare workers could only be employed under a "healthcare service relationship" (*egészségügyi szolgálati jogviszony*). The healthcare professionals employed under the new scheme, like civil servants, had no active role in shaping the content of the legal relationship. Both categories of employees could only decide whether or not to continue their employment under the new conditions laid down by law, being fully aware of the consequences. In the case of medical professionals, failure to sign the new contract resulted in the termination of their employment relationship by operation of law. The Constitutional Court also noted that integrity tests were subject to close supervision of their legality by the prosecutor's office, including assessments of their necessity and proportionality.

RELEVANT LEGAL FRAMEWORK and PRACTICE

I. DOMESTIC LAW

A. The Police Act

15. Concerning the personal scope of integrity testing, the relevant parts of the Police Act, as in force between 25 May 2022 and 6 June 2025 (at the time of the adjudication of the applicants' complaints by the Constitutional Court), provided:

The body responsible for internal crime prevention and detection

Section 7

"(1) The body performing internal crime prevention and detection shall

...

b) carry out

...

integrity testing of

(ba) all workers, with the exception specified in subsection (1c), of the ministry or any other organisation headed by the minister directing the body which performs internal crime prevention and detection tasks, of budgetary bodies directed or supervised by the minister who directs the body which performs internal crime prevention and detection tasks, and of the Ludovika University of Public Service,

(bb) people employed under a healthcare service relationship – except for people participating in healthcare activities as students and people employed by a healthcare service provider maintained or owned by a religious organisation – as well as the personnel of a healthcare provider directed by the minister responsible for defence,

...

[those specified in (ba)-(bd) shall henceforth be referred to as protected personnel],

...

(1a) For the purposes of subsection (1)(b)(ba), workers shall include persons with

...

(b) public servant status,

...

(g) healthcare service relationship,

(h) employment status."

16. Effective from 7 June 2025 the above subsection (1)(b)(bb) was amended to extend the scope of integrity testing to any healthcare worker employed at a clinical centre maintained by a higher education institution or employed by a healthcare provider subject to Act no. C of 2020 on Healthcare Service Relationship regardless of his or her employment relationship, except for students, people employed by a healthcare service provider maintained or owned by a religious organisation and general practitioners carrying out their duties on the basis of a contract with a municipality and the staff of healthcare service providers under the direction of the Minister of Defence who are not involved in the care of the civilian population. The explanatory memorandum to the amendment explained that the Government considered it a priority to increase trust in the State and, as part of that, to strengthen the public administration's resilience to corruption by identifying and reducing corruption risks and detecting corruption itself. To reduce the risks of corruption in the healthcare sector the amendment aimed at extending the scope of the integrity tests to all staff working in that sector, regardless of their type of employment contract.

17. In accordance with section 7/A(1) of the Police Act, the purpose of integrity testing is to determine whether the person concerned fulfils his or her official or professional duties prescribed by law, collective agreements, work agreements and employment contracts. No disciplinary action or minor offence proceedings may be taken on the basis of any breach of the above-mentioned duties discovered during an integrity test.
18. In order to check the fulfilment of the duties of the post or office, the NPS is authorised to have undercover officers create and take part in real-life situations which might occur in the course of the performance of the duties of the relevant post (section 7/A(1a) of the Police Act).
19. The procedure is ordered by the head of the NPS by a decision stating the grounds for the necessity of testing a named member of the protected body or a member or members of the protected body serving in a particular area whose identity is unknown at the time of the order (section 7/A(2) of the Police Act).
20. The detailed plan for the conduct of the integrity testing needs to include, among other things, the reasons for conducting the integrity testing (section 9(1)(b) of Government Decree no. 194/2022 (V.27) on the National Protective Service).
21. The prosecutor must be informed without delay of the order and the completion of the investigation, together with the decision and the detailed plan if the order has been made and the summary report if the investigation has been completed.
22. On the basis of the decision and the detailed plan for the integrity testing, the public prosecutor shall, within two working days, approve or refuse to approve the order in question (section 7/A(2) of the Police Act).
23. Within eight working days of receipt of the decision to close the integrity testing procedure, the prosecutor examines the legality thereof and returns the decision to the body which ordered the investigation. In the event of a finding of an infringement of the law, the prosecutor shall issue a reasoned written decision instructing the body which carried out the integrity test to issue a new decision. If the prosecutor finds that the integrity test was carried out in a manner different from that provided for in the detailed plan, he or she initiates proceedings against the person or persons concerned (section 7/A(2a) of the Police Act).
24. The subject of the integrity test must be informed about the termination of the procedure within 15 working days (section 7/A(3) of the Police Act).
25. If during the integrity testing procedure the NPS discovers grounds to suspect the existence of a crime, it is obliged to immediately report them to the appropriate investigative authority or to the prosecutor's office and to transmit all the gathered data to the contacted authority (section 7(3)(a) of the Police Act). In the absence of any such suspicion, all data gathered in the course of the integrity testing procedure, with the exception of decisions ordering and terminating the procedure, must be destroyed within 30 days after the termination of the procedure (section 7/C(2) of the Police Act).
26. The integrity testing procedure can be conducted a maximum of three times a year in respect of any one individual and it can last for a maximum of 15 days at a time, although that period can be extended once by the head of the NPS by an additional 15 days (section 7/A(4) and (6)).
27. During the integrity testing procedure the NPS is entitled to employ secret intelligence gathering techniques that are not subject to judicial authorisation if the particular technique was included in the decision ordering the integrity testing and in the detailed plan, and if the prosecutor's office has

approved its use (sections 7/B(1), 64(b), 65(3) of the Police Act). Secret intelligence gathering under the Police Act is defined as a special activity carried out by the police without the knowledge of the person concerned and which restricts fundamental rights relating to the right to respect for someone's home, correspondence and the protection of personal data (section 63(1) of the Police Act). The NPS is not entitled to apply methods requiring judicial authorization (section 65/A(1) of the Police Act).

28. In the framework of the secret intelligence gathering, the NPS can observe people, dwellings, other premises, enclosed areas, public places or areas that are open to the public, as well as vehicles. It can gather information about anything going on in any such locations and may record them using technical tools (section 66(1)(c) of the Police Act). The NPS can also obtain data necessary to establish the fact of communication *via* an electronic device or information system or to identify or locate such a device or information system (section 66(1)(e) of the Police Act).

29. In the real-life situation created by the undercover officers during integrity testing, the NPS can covertly observe and record, by technical means, the actions and utterances of the person under investigation and any occurrences on the premises of the person's employer, in a vehicle and at the place of the integrity testing. The NPS is authorised to place the necessary technical means in such places (section 66(2) of the Police Act).

30. In relation to secret information gathering, the requirement of proportionality laid down in section 15 of the Police Act needs to be applied with increased caution (section 63(3) of the Police Act). Pursuant to section 15 of the Police Act, a measure by the police should not cause any harm which is manifestly disproportionate to the legitimate aim of the measure and, among a range of possible and appropriate police measures, the least restrictive one should be chosen.

31. Government Decree no. 194/2022 (V.27) on the National Protection Service specifies that when recording data by technical means it should be ensured that data which are not relevant for the purpose of the integrity testing and the data of any individuals not involved in the case are not recorded (section 9(4)). Data that are not relevant for the purpose of the integrity testing and the data of anyone not involved in the case must be deleted within three days of the recording (section 7/B(5) of the Police Act).

B. The Healthcare Act

32. Act no. C of 2020 on Healthcare Service Relationship amended Act CLIV of 1997 on Healthcare (hereinafter "the Healthcare Act") with effect from 1 January 2021 by enacting section 138/A. The new section clarified that, with certain exceptions, a healthcare worker or professional cannot, during or after the provision of a healthcare service, seek or accept any remuneration or other benefit in cash, in kind or in the form of an economic service, or any other benefit in return for the provision of the healthcare service, in addition to the remuneration provided for by law.

C. The Criminal Code

33. Making reference to the relevant rules of the Healthcare Act, Act no. C of 2020 on Healthcare Service Relationship also amended Act no. C of 2012 on the Criminal Code by criminalising gratuity payments in the healthcare sector by adding the giving and requesting or accepting of undue advantage in connection with the provision of healthcare services to the offences of active and passive bribery (Articles 290(6) and 291(6)).

34. In addition, Act no. C of 2012 on the Criminal Code also punishes certain acts in connection with the ordering and conducting of integrity testing. Under Article 308 of the Criminal Code any public official who conducts an integrity testing procedure without the approval of the prosecutor or exceeds the scope of such approval, or approves integrity testing without authorisation is punishable with imprisonment of up to three years. Any public official who makes a false statement in the decision ordering the integrity testing and, on this basis, the person authorised to do so approves the ordering of the integrity testing is similarly punishable.

D. Act no. XXXIII of 1992 on the Legal Status of Civil Servants

35. Act no. XXXIII of 1992 on the Legal Status of Civil Servants declares the possibility of integrity testing of civil servants as follows:

Chapter I.

Establishment and modification of public employment

Section 20

"...

(2b) With regard to civil servants in a public employment relationship with the employer, the body designated by law may, if provided by law, verify that the civil servant in a public employment relationship with the employer fulfils his or her official duties as defined in this Act."

II. relevant international material

36. The Group of States against Corruption ("GRECO") launched its Fifth Evaluation Round in respect of Hungary on 1 January 2017. In its evaluation report adopted at its 91st Plenary Meeting (Strasbourg, 13-17 June 2022) GRECO noted the following:

"2. A common and general feature of public administration and law enforcement agencies in Hungary is that most integrity and corruption prevention measures target low and mid-level officials. Integrity tests carried out by the National Protective Service have proven successful in curbing petty corruption in public administration and in the border and traffic police.

...

133. ... According to the information provided to the [GRECO evaluation team], 8,830 integrity tests have been carried out in the last ten years; 137 led to criminal or administrative proceedings and 83 to final court judgments. As of January 2021, an amendment to the Police Act entered into force, according to which integrity testing may now be carried out in respect of all staff under the supervision of the government and its members – the only exception being the Ministry of Defence."

37. The Technical Guide to the United Nations Convention against Corruption by the United Nations Office on Drugs and Crime and the United Nations Interregional Crime and Justice Research Institute ("the UNICRI"), 2009, contains the following relevant passages on integrity testing:

II.4.5. Integrity testing

"Integrity testing is a method that enhances both the prevention and prosecution of corruption and has proved to be an extremely effective and efficient deterrent to corruption. Integrity testing is usually utilized in circumstances where intelligence exists providing indications that an individual or a number of individuals, usually public officials, are corrupt.

A scenario is created in which, for example, a public civil servant is placed in a typical everyday situation where he or she has the opportunity to use personal discretion in deciding whether or not

to engage in criminal or other inappropriate behaviour. The employee may be offered the opportunity to take a bribe by an undercover officer or be presented with an opportunity to solicit a bribe through, for example, an abuse of public functions (see article 19). However, such testing cannot be simply used on an indiscriminate basis but must be based on some level of intelligence to suggest that the employee may be corrupt. ..."

THE LAW

I. JOINDER OF THE APPLICATIONS

38. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

39. The applicants complained that the fact that they could be subjected to secret surveillance measures in the course of integrity testing violated their right to respect for their private and family life as provided in Article 8 of the Convention, which reads as follows:

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

A. Admissibility

1. The parties' submissions

40. The Government argued that the applications were inadmissible *ratione personae* because the applicants lacked victim status. They submitted that, unlike in the case of *Szabó and Vissy v. Hungary* (no. 37138/14, 12 January 2016), the secret surveillance measures in question did not apply to ordinary citizen. As regards the first applicant, the measures in question had become applicable to him when he had signed his new healthcare service employment contract, thereby accepting the terms and conditions of that form of employment including the possibility of being subjected to integrity tests. As regards the second, third and fourth applicants, the measures complained of had become applicable to them by virtue of an employment contract which they had freely entered into and maintained by their own choice. Consequently, all the applicants had waived their rights under Article 8 of the Convention.

41. The applicants disagreed, arguing that, in accordance with the line of case-law established in *Szabó and Vissy* (cited above), the mere fact that they belonged to groups targeted by the measures created a victim status, even if no concrete measures had been applied to them, especially since persons subjected to integrity testing had no legal recourse against any surveillance. Furthermore, they had not waived their privacy rights by entering or maintaining their employments; they could not possibly be expected to alter their career pathways only to avoid the measures.

2. The Court's assessment

42. As to the applicants' victim status in the context of secret surveillance measures, the Court notes that the general principles regarding when applicants may claim that they are victims of an interference with their rights under Article 8 of the Convention due to domestic legislation permitting secret surveillance were clarified in *Roman Zakharov v. Russia* ([GC], no. 47143/06, § 171, ECHR 2015) and more recently reiterated in *Centrum för rättvisa v. Sweden* ([GC], no. 35252/08, § 167, 25 May 2021).

43. The criteria that harmonised the two previously existing parallel approaches to victim status in secret surveillance cases were settled in *Roman Zakharov* (cited above, § 171) as follows:

"... Firstly, the Court will take into account the scope of the legislation permitting secret surveillance measures by examining whether the applicant can possibly be affected by it, either because he belongs to a group of persons targeted by the contested legislation or because the legislation directly affects all users of communication services by instituting a system where any person can have his communications intercepted. Secondly, the Court will take into account the availability of remedies at the national level and will adjust the degree of scrutiny depending on the effectiveness of such remedies. ... [W]here the domestic system does not afford an effective remedy to the person who suspects that he was subjected to secret surveillance, widespread suspicion and concern among the general public that secret surveillance powers are being abused cannot be said to be unjustified ... In such circumstances the threat of surveillance can be claimed in itself to restrict free communication through the postal and telecommunication services, thereby constituting for all users or potential users a direct interference with the right guaranteed by Article 8. There is therefore a greater need for scrutiny by the Court, and an exception to the rule denying individuals the right to challenge a law *in abstracto* is justified. In such cases the individual does not need to demonstrate the existence of any risk that secret surveillance measures were applied to him."

44. The Court observes that the applicants belong to the group of persons who are listed in section 7(1)(ba) and (bb) of the Police Act, being in employment relationships specified in section 7(1a)(b), (g) and (h) of the Police Act, and thus can be subject to integrity testing by the NPS. The Constitutional Court explicitly acknowledged that the applicants were personally and directly affected by the legislation in question for the purposes of the adjudication of their constitutional complaints (see paragraph 11 above).

45. The Court also considers that, as pointed out by the Constitutional Court (see paragraph 11 above), the domestic law does not seem to allow an individual who alleges being targeted by the secret intelligence gathering measures under section 66(1)(c) and (e) of the Police Act to lodge a complaint with a judicial or other independent body. Therefore, the Court is of the view that the applicants satisfy the criteria laid down in the *Roman Zakharov* judgment for being victims of a violation of their Convention rights within the meaning of Article 34 of the Convention.

46. With regard to the Government's suggestion that the applicants' persistence in their respective employment amounts to a waiver, the Court refers to the principles drawn from its case-law on the requirements for a valid waiver, primarily in the context of Article 6 of the Convention. The waiver of a right guaranteed by the Convention – in so far as such a waiver is permissible – must be established in an unequivocal manner, and be given in full knowledge of the facts, that is to say on the basis of informed consent (see *D.H. and Others v. the Czech Republic* [GC], no. 57325/00, § 202, ECHR 2007-IV) and without constraint (see *Deweer v. Belgium*, 27 February 1980, § 51, Series A

no. 35). In addition, a waiver must be attended by minimum safeguards commensurate with its importance (see *Dvorski v. Croatia* [GC], no. 25703/11, § 100, ECHR 2015) and once invoked must not only be voluntary, but must also constitute a knowing and intelligent relinquishment of a right (see *Simeonovi v. Bulgaria* [GC], no. 21980/04, § 115, 12 May 2017). Furthermore, it must not run counter to any important public interest (see *D.H. and Others*, cited above, § 204).

47. The Court is not persuaded that these requirements are met in the present circumstances. In any event, the Government's argument essentially amounts to stating that the applicants should have changed jobs just to avoid the measures complained of.

48. In this connection the Court refers to the case of *Eweida and Others v. the United Kingdom* (nos. 48420/10 and 3 others, § 83, ECHR 2013 (extracts)) in which it considered, in the context of Article 9 of the Convention, the question whether the existence of an interference can be established if a person is able to take steps to circumvent a restriction on the exercise of his or her Convention right. It concluded that, when an individual complains of a restriction on freedom of religion in the workplace, rather than holding that the possibility of changing job would negate any interference with the right, the better approach would be to weigh that possibility in the overall balance when considering whether or not the restriction was proportionate, given the importance of freedom of religion in a democratic society.

49. This approach is indeed in line with the methodology that the Constitutional Court applied in its examination of the constitutionality of the legislative amendments in question. In particular, the Constitutional Court deemed it relevant to take into account the fact that the applicants had retained their jobs when examining the proportionality of the interference with their private lives.

50. Given that the applicants were undisputedly subject to the impugned legislation, had no remedies available to them and could circumvent its scope only by changing jobs, the Court concludes that the Government's objection denying the applicants' victim status must be rejected.

51. The Court notes that the applications are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicants

52. The first applicant submitted that the surveillance measures complained of concerned many people as they could potentially be used against anyone working in public healthcare sector in Hungary. He argued that integrity testing and the potential use of secret surveillance had an intimidating effect. They also failed to serve the legitimate aims declared in the Police Act owing to the lack of a possibility to initiate disciplinary or minor-offence procedures even if a violation of professional duties was identified in the course of integrity testing. Even assuming that integrity testing served law enforcement purposes, it constituted a disproportionate interference, since it could be initiated without prior suspicion of a criminal offence (in fact, integrity testing aimed to explore whether the suspicion of a crime could be established). Furthermore, the legislation did not provide for safeguards against abuse.

53. The second, third and fourth applicants complained that the mere existence of legislation, which allowed them to be subject to secret surveillance during integrity testing, constituted an unnecessary

and disproportionate interference with their right to respect for private and family life in the light of their job titles and professional responsibilities.

54. They submitted that the legislation was deficient on several grounds: the applicants were not informed in advance about the nature and scope of such investigations, the investigations were highly intrusive, the justification for them was questionable given the nature of the applicants' work, there were no provisions enabling less intrusive measures and they could entail criminal consequences without there being any available legal remedy.

55. They further argued that the interference was not "strictly necessary" for the safeguarding of democratic institutions and for the obtaining of vital intelligence in an individual operation. In their view, integrity testing by the police was an inappropriate tool for exposing breaches of professional obligations as the police did not have the professional competence to decide whether the applicants conducted their jobs in a professional manner. It also indiscriminately applied to a broad range of government employees, regardless of the actual potential for corruption or unprofessional conduct.

(b) The Government

56. The Government referred extensively to the reasoning of the Constitutional Court. As regards the legitimate aim, they noted that in the case of doctors, such as the first applicant, the legislature's intention in the reform of the healthcare system had been to create a safe and transparent healthcare system by regulating wages, separating the private and public healthcare systems and abolishing the long-standing practice of gratuity payments which undermined public confidence in public healthcare. In the case of civil servants, such as the second, third and fourth applicants, they argued that the legitimate aim of extending the possibility of integrity testing to them was to ensure impartial, transparent and non-discriminatory decision-making in the performance of public tasks.

57. As to necessity of the measure, the Government argued that, in those particular contexts, the use of undercover officers to create real-life opportunities for misconduct, which constitutes the very essence of integrity testing, and the use of various means of covert surveillance and data collection were the only suitable means for monitoring the professional conduct of the people concerned and of checking whether they were fulfilling their job responsibilities, and, in the case of medical practitioners, of detecting and proving instances of bribery.

58. As to the proportionality of the measure, the Government referred to the fact that the persons concerned had had the choice to consider whether or not to sign the new health service contract and to continue their employment, thereby exercising their self-determination, including self-limitation. They also referred to the procedural guarantees set out for the conducting of integrity tests (sections 7/A – 7/C of the Police Act, see paragraphs 19–26 and 30–31 above).

2. The Court's assessment

(a) General principles

59. The Court reiterates that covert video surveillance of an employee at his or her workplace must be considered, as such, a considerable intrusion into the employee's private life (see *Antović and Mirković v. Montenegro*, no. 70838/13, § 44, 28 November 2017 and *Köpke v. Germany* (dec.), no. 420/07, 5 October 2010). Even if distinct in nature from the interception of communication, the collection and storage, without the knowledge of the person concerned, of personal data relating to the use of their telephone (such as traffic and location data) amounts to an interference with the exercise of the person's right to respect for his or her private life and correspondence, within the meaning of

Article 8 of the Convention (see *Ben Faiza v. France*, no. 31446/12, §§ 66-67, 8 February 2018). In *Ekimdzhiev and Others v. Bulgaria* (no. 70078/12, § 373, 11 January 2022) the Court found no reason to hold otherwise with respect to other types of communications, such as electronic communications, or with respect to communications data more generally.

60. The general principles governing the question when secret measures of surveillance, including the interception of communications, can be justified under Article 8 § 2 of the Convention for the protection of national security or in the context of criminal investigations or the prevention of crime were set out in detail in *Roman Zakharov* (cited above, §§ 227-34, 236, 243, 247, 250, 257-58, 275, 278 and 287-88). Many of those principles were also reiterated in the context of bulk interception in *Centrum för rättvisa* (cited above, §§ 246-53) and *Big Brother Watch and Others v. the United Kingdom* ([GC], nos. 58170/13 and 2 others, §§ 332-39, 25 May 2021). The most pertinent principles are the following.

61. Any interference with an individual's Article 8 rights can only be justified under Article 8 § 2 if it is in accordance with the law, pursues one or more of the legitimate aims to which that paragraph refers and is necessary in a democratic society in order to achieve any such aim (see *Roman Zakharov*, cited above, § 227 and *Kennedy v. the United Kingdom*, no. 26839/05, § 130, 18 May 2010).

62. In cases where the legislation permitting secret surveillance is contested before the Court, the lawfulness of the interference is closely related to the question whether the "necessity" test has been complied with and it is therefore appropriate for the Court to address jointly the "in accordance with the law" and "necessity" requirements. "Quality of law" implies that the domestic law must not only be accessible and foreseeable in its application, it must also ensure that secret surveillance measures are applied only when "necessary in a democratic society", in particular by providing for adequate and effective safeguards and guarantees – especially review and oversight arrangements – which protect against the inherent risk of abuse (see *Ekimdzhiev and Others*, cited above, § 292; *Roman Zakharov*, cited above, § 236; and *Kennedy*, cited above, § 155).

63. In its case-law on the interception of communications in criminal investigations, the Court has developed the following minimum requirements that should be set out in law in order to avoid abuses of power: (i) the nature of offences which may give rise to an interception order; (ii) a definition of the categories of people liable to have their communications intercepted; (iii) a limit on the duration of interception; (iv) the procedure to be followed for examining, using and storing the data obtained; (v) the precautions to be taken when communicating the data to other parties; and (vi) the circumstances in which intercepted data may or must be erased or destroyed (see *Weber and Saravia v. Germany* (dec.), no. 54934/00, § 95, ECHR 2006-XI, and *Association for European Integration and Human Rights and Ekimdzhiev v. Bulgaria*, no. 62540/00, § 76, 28 June 2007). In *Roman Zakharov* (cited above, § 231) the Court confirmed that the same six minimum safeguards also applied in cases where the interception was for reasons of national security; however, in determining whether the impugned legislation was in breach of Article 8, it also had regard to the authorisation procedures, to the scope and duration of the secret surveillance measures, to the arrangements for supervising its implementation, to the existence of notification mechanisms and to the remedies provided for by national law (see *Roman Zakharov*, cited above, § 238; *Centrum för rättvisa*, cited above, §§ 249-51; and *Big Brother Watch and Others*, cited above, §§ 335-37).

64. Finally, in cases such as the present one, where the applicants complained *in abstracto* about a system of secret surveillance rather than of specific instances of such surveillance, the relevant national laws and practices are to be scrutinised as they stand at the time when the Court examines the admissibility of the application, rather than as they stood when it was lodged (see *Centrum för rättvisa*, cited above, §§ 147 and 150-51; *Big Brother Watch and Others*, cited above, § 270; and *Pietrzak and Bychawska-Siniarska and Others v. Poland*, nos. 72038/17 and 25237/18, § 194, 28 May 2024).

(b) Application of the general principles to the present case

65. In view of the above principle on the temporal scope of the Court's examination, the Court's review will focus on the Hungarian legislation as it stands at the time of the present examination (see paragraphs 15–35).

66. It is not in dispute between the parties that the measures which the NPS is entitled to apply, under section 66 of the Police Act (see paragraphs 28–29 above), constitute an interference with the applicants' rights to respect for private and family life under Article 8 of the Convention. These measures include the secret observation of individuals, places (private premises or places open to the public) or vehicles; the gathering of information about what has happened in such places and the recording of such happenings by technical tools, such as video or audio recording. They also include the obtaining of data necessary to establish the communication *via* electronic devices or to identify or locate such devices. In view of its case-law (cited above in paragraph 59) and the fact that section 63(1) of the Police Act itself defines secret intelligence gathering as an activity that restricts someone's right to respect for their home, correspondence and personal data, the Court sees no reason to rule otherwise.

67. As the Court has found an interference under Article 8 § 1 with regard to the applicants' general complaint about the relevant rules of the Police Act, rather than any actual activity allegedly taking place, when examining the justification for the interference (see paragraphs 61–62 above) the Court is required to examine the legislation itself and the safeguards against the misuse of power incorporated into the system allowing for secret surveillance, rather than the proportionality of any specific measures taken with regard to the applicants (*Szabó and Vissy v. Hungary*, cited above, § 58).

68. The Court's assessment of whether such guarantees exist and are adequate against abuse depends on the circumstances of the case.

69. In the light of the specific characteristics of integrity testing and the nature of the interference in question with the applicants' exercise of their rights protected by Article 8 of the Convention, the Court considers that, in the present case, integrity testing and the secret intelligence gathering measures it potentially involves should be subjected to safeguards similar to those applied to the interception of communications in criminal investigations (see paragraph 63 above). In view of the applicants' complaints about the deficiencies in domestic legislation, the Court's assessment will focus on elements of the legislation which are alleged to fall short of the requirements under Article 8 of the Convention: the scope and authorisation of integrity testing and secret surveillance measures, the existence of notification mechanisms and the remedies provided for by national law.

70. The Court notes that, since its introduction in 2011, the categories of individuals subject to integrity testing under the Police Act have gradually been extended (see paragraphs 5, 6, 15–16 above), to include, among others, and with a few exceptions, all employees of healthcare service

providers maintained by the state or local governments and all employees of different public bodies headed by or under the direction or supervision of the Minister of the Interior.

71. As stated in the Government's submissions, the aim of those legislative amendments was to curb corruption amongst civil servants and the solicitation of or acceptance of gratuities in the provision of healthcare services. The Court acknowledges the national authorities' commitment to combatting corruption and their efforts to create transparency within the public service, particularly by way of eliminating the long-standing practice of giving and accepting gratuities within the public healthcare system.

72. Integrity testing is a method that can be efficient both in deterring and prosecuting corruption (see paragraphs 36 and 37 above). However, in line with the opinion of the United Nations Office on Drugs and Crime and UNICRI (see paragraph 37 above), the Court considers that such testing cannot be used indiscriminately and must be based on intelligence suggesting that the employee or employees in question may be corrupt.

73. The Hungarian legislation seems to fall short of that requirement. As the applicable legislation stands (as laid out in the Police Act and Government Decree no. 194/2022 (V.27)), integrity testing can be applied to all persons belonging to the groups of people listed under section 7(1)(ba)-(be) of the Police Act, indiscriminately. There is no indication concerning the grounds or considerations on the basis of which such integrity testing can be ordered. The Court notes in this connection that, under section 7/A(2) of the Police Act, integrity testing can be conducted not only in relation to named individuals but also in relation to individuals whose identity is still unknown at the time the order is made. This further reinforces the indiscriminate nature of the ordering of integrity tests.

74. The Government did not explain the indiscriminate nature of the measures in question, nor did they provide relevant and sufficient reasons to support the necessity thereof.

75. Even though the head of the NPS must provide reasons for ordering the integrity testing (see paragraphs 19–20 above), the mere requirement for the authorities to give reasons for the application of the measure, arguing for its necessity, falls short of an assessment of strict necessity (see *Szabó and Vissy*, cited above, § 71). There is no indication in domestic law that the NPS would need to produce supporting materials, or a sufficient factual basis for the application of integrity testing and any accompanying secret intelligence gathering measures. This would enable the prosecutor's office, as a supervisory authority (see paragraphs 21 and 27 above), to ascertain whether the ordered measure meets the requirement of "necessity in a democratic society", as provided by Article 8 § 2 of the Convention, including whether it is proportionate to the legitimate aims pursued, by verifying, for example, whether it would be possible to achieve the aims by less restrictive means (*Roman Zakharov*, cited above, § 260).

76. In view of the above, the Court finds that the legislation governing integrity testing lacks adequate safeguards against broadening the scope of possible secret surveillance beyond what is strictly necessary for the protection of democratic institutions.

77. Concerning the existence of any notification mechanisms and the remedies provided for by national law, the Court reiterates its previous finding that the question of subsequent notification of surveillance measures is inextricably linked to the effectiveness of remedies (see *Weber and Saravia*, cited above, § 135; *Roman Zakharov*, cited above, § 286; and, more recently, in the context of criminal prosecution, *Klaudia Csikós v. Hungary*, no. 31091/16, § 60, 28 November 2024). Under section 7/A(3)

of the Police Act, the subject of the integrity test must be informed about the termination of the procedure within 15 working days. However, the Court finds it relevant that the person concerned is only informed that an integrity testing procedure has been conducted against him or her and that it has been terminated, without he or her having access to any further details about the procedure itself. Nor does domestic law allow the person concerned to be informed as to whether any measure of secret information gathering was used during the integrity testing procedure. These gaps in the notification system make it inherently difficult for the person concerned to subsequently seek a remedy for the application of the measures in question. The national law thus eschewed an important safeguard against the unlawful or arbitrary use of integrity testing or special means of surveillance (see *Association for European Integration and Human Rights and Ekimdzhiev*, cited above, §§ 90-91; and *Roman Zakharov*, cited above, § 288).

78. The Court takes note that Hungarian law provides for criminal sanctions for unauthorised integrity testing under Article 308 of the Criminal Code (see paragraph 34 above). However, for the reasons set out in the preceding paragraph, the effectiveness of this remedy is questionable in light of the fact that information about the details of an integrity test conducted against a person, including its authorisation and whether any measure of secret information gathering was used during the testing procedure remain inaccessible to the person concerned. The Court further doubts whether it constitutes an adequate remedy in relation to complaints that do not question compliance with the rules governing the approval of integrity testing by the prosecutor, but rather whether integrity testing and the measures applied in its course were necessary and proportionate in the given circumstances. This remedy's effectiveness is therefore undermined by the shortcomings of the notification system mentioned above (compare *Roman Zakharov*, cited above, §§ 297-98) and the fact that punishable conduct is limited to the violations of the rules governing the prosecutor's approval of integrity testing.

79. In light of the above, it does not appear that the applicants had effective access to an independent and impartial body with jurisdiction to examine any complaint relating to unlawful integrity testing or secret intelligence gathering (see paragraphs 11 and 45 above), independently of a notification that such measures had taken place (*Klaudia Csikós*, cited above, § 61).

80. The foregoing considerations are sufficient for the Court to conclude that the provisions in the Police Act relating to integrity testing and the use of secret surveillance which it can involve fail to satisfy the requirements of Article 8 of the Convention, since the domestic legal framework does not meet the "quality of law" requirement and cannot ensure that the resulting interferences are limited to what is "necessary in a democratic society".

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

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

82. Article 41 of the Convention provides:

"If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

83. The first applicant claimed 10,000 euros (EUR) in respect of non-pecuniary damage. The second, third and fourth applicants claimed EUR 3,000 each.

84. The Government argued that the applicants' claims were excessive.

85. The Court considers that, in the circumstances of the present case, the finding of a violation of Article 8 constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained.

B. Costs and expenses

86. The first applicant claimed EUR 3,000 and the second, third and fourth applicants jointly claimed EUR 1,540 in respect of the costs and expenses incurred before the Court.

87. The Government argued that the applicants' claims were excessive.

88. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum (see, among many other authorities, *L.B. v. Hungary* [GC], no. 36345/16, § 149, 9 March 2023). In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the full sums claimed under this head, plus any tax that may be chargeable to the applicants.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that there has been a violation of Article 8 of the Convention;
4. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicants;
5. *Holds*

(a) that the respondent State is to pay, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 3,000 (three thousand euros) to the first applicant and EUR 1,540 (one thousand five hundred and forty euros) to the second, third and fourth applicants jointly, plus any tax that may be chargeable to the applicants, in respect of costs and expenses, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(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;

6. *Dismisses*, unanimously, the remainder of the applicants' claim for just satisfaction.

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

Hasan Bakırcı Registrar

Arnfinn Bårdsen President