

**DECISION 1 OF 1995: 8 FEBRUARY 1995**  
**ON COMPENSATION FOR PAST INJUSTICES I**

The petitioners sought constitutional review of Act XXXII of 1992 which regulated the question of compensation for those wrongfully deprived of their life and liberty due to political reasons.

The purpose of the Act was to compensate not for property losses or material damage (as had been the aim of previous compensation statutes) but rather for personal injury and loss of life which had occurred under different political regimes. Broadly speaking, the fascist regime perpetrated such violations on the ground of racism and nationalism while the subsequent communist regime followed mostly ideological and political motives.

The Act provided, *inter alia*, that (i) deportation by either regime was to be regarded merely as a form of deprivation of liberty; (ii) people compelled to undergo forced labour service (a form of unarmed military service for those pursued by the regime during the War) were treated differently according to whether or not these camps belonged to combat force units; *etc*

The petitioners submitted, *inter alia*, that the Act specified in an arbitrary and discriminatory way those who were entitled to compensation. In particular the Act restricted the possibility of compensation to those whose rights were arbitrarily violated in connection with a formal criminal procedure. This excluded from compensation those killed by Hungarian authorities without any formal judicial procedure (*e.g.* shot, or killed in forced labour camps).

**Held**, allowing the petition in part:

(1) The principles underlying the Act were, in general, constitutional. The type of compensation provided through the Act was not based on a legal obligation emanating from the time before the transition. The Government compensated according to equity and thus no one had a subjective right to compensation. Therefore the general principles of the compensation process were constitutional, including the fact that the legislature passed different compensation statutes periodically.

(2) There had, however, been an unconstitutional omission to enact a statute on the part of the Government and the legislature. Act XXXII of 1992 provided for an additional legislative act which would cover those persons who had not fallen under the previous law. According thereto the Government was obliged to present a draft as early as 1992. The failure of the Government to comply with this obligation created an unconstitutional discrimination to the detriment of those who had not fallen within the compensation statute. In particular, persons who had been killed without any formal judicial procedure were excluded from compensation. The legislature was required to rectify this constitutional omission by passing a further compensation statute before the end of September 1995.

(3) The provisions concerning deportation were unconstitutional. During the Second World War, „deportation” had meant far more than deprivation of liberty. It had amounted to expulsion from the country by force when Hungarian authorities, on racial, religious or political grounds, handed their own citizens to authorities of foreign powers which had them carried off to concentration camps. Leaving these historical circumstances out of consideration violated the constitutional requirement of treating everybody with equal dignity. Deported people formed a clearly defined, specific group that the legislature was bound to

respect. The provisions whereby deportation to Germany or to the Soviet Union were to be regarded as a mere deprivation of liberty, were unconstitutional.

(4) It was arbitrary and thus unconstitutional to discriminate between people compelled to undergo forced labour who had served in either combat or non-combat forces, because those belonging to non-combat forces were made to live in closed camps and were thus deprived of their liberty.