

1. Vainai (specific case)

The applicant, a Hungarian national, was the Vice-President of a registered left-wing Worker's Party. On 21 February 2003, the applicant was a speaker at a lawful demonstration in central Budapest. On his jacket, the applicant wore a five-pointed red star as a symbol of the international workers' movement. A police patrol called on the applicant to remove the red star, which he did. The request for the removal of the red star was made pursuant to section 269/B(1) of the Hungarian Criminal Code. Subsequently, criminal proceedings were instituted against the applicant for having worn a 'totalitarian symbol'.

On 11 March 2004, the District Court convicted the applicant of the offence of using a totalitarian symbol, whereupon a sanction was imposed for a probationary period of one year. The applicant appealed to the Budapest Regional Court which upheld the conviction. In May 2006, the applicant lodged a complaint with the European Court of Human Rights. He alleged that his conviction for having worn the symbol of the international workers' movement constituted an unjustified interference with his right to freedom of expression, in breach of art 10 of the *Convention*.

2. Aviation Security Act (law)

§ 13

Decision of the Federal Government

(1) Where on account of a major aerial incident, facts exist that, in the context of the exercise of police power, give rise to the assumption that an "especially grave accident" within the meaning of Article 35.2 sentence 2 or 3 of the Basic Law is imminent, the armed forces can be employed to support the police forces of the *Länder* in the air space to prevent such accident.

(2) The decision about a mission pursuant to Article 35.2 sentence 2 of the Basic Law shall be taken by the Federal Minister of Defence upon request of the *Land* affected, or in the event of the Minister of Defence having to be represented, by the member of the Federal Government who is authorised to represent the Minister, in consultation with the Federal Minister of the Interior. Where immediate action is required, the Federal Ministry of the Interior is to be informed without delay.

(3) The decision about a mission pursuant to Article 35.3 of the Basic Law shall be taken by the Federal Government in consultation with the *Länder* affected. If a decision of the Federal Government is not possible in time, the Minister of Defence, or in the event of the Minister of Defence having to be represented, the member of the Federal Government who is authorised to represent the Minister, shall take the decision in consultation with the Federal Minister of the Interior. The decision of the Federal Government is to be brought about without delay. Where immediate action is required, the *Länder* affected and the Federal Ministry of the Interior are to be informed without delay.

(4) Further details shall be regulated between the Federation and the *Länder*. The support by the armed forces shall be rendered in accordance with the provisions of this Act.

§ 14

Operations, authority to give instructions

(1) To prevent the occurrence of an especially grave accident, the armed forces may force the aircraft off its course in the air space, force it to land, threaten to use armed force, or fire warning shots.

(2) From several possible measures, the one which will probably least impair the individual and the general public is to be chosen. The measure may only be carried out as long as and to the extent that its purpose requires. It may not result in a detriment that is recognisably out of proportion to the aspired success.

(3) The direct use of armed force is permissible only where it must be assumed under the circumstances that the aircraft is intended to be used against human lives, and where this is the only means to avert the imminent danger.

(4) The measure pursuant to subsection 3 can only be ordered by the Federal Minister of Defence, or in the event of the Minister of Defence having to be represented, by the member of the Federal Government who is authorised to represent the Minister.(...)

§ 15

Other measures

(1) The measures pursuant to § 14.1 and 14.3 may only be taken after a check [of the aircraft] and unsuccessful attempts at warning and diverting [the aircraft]. For this purpose, the armed forces can, upon request of the authority responsible for air traffic control, check, divert or warn aircraft in the air space ...

(2) The (...) Chief of Staff of the Federal Air Force is to inform the Federal Minister of Defence without delay about situations that could lead to measures pursuant to § 14.1 and 14.3.

(3) The other regulations and principles of administrative assistance shall remain unaffected.