



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

SECOND SECTION

**CASE OF BÓDINÉ BENCZE v. HUNGARY**

*(Application no. 42373/98)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

1 October 2002

*This judgment is final but it may be subject to editorial revision.*



**In the case of Bódiné Bencze v. Hungary,**

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Mr J.-P. COSTA, *President*,

Mr A.B. BAKA,

Mr GAUKUR JÖRUNÐSSON,

Mr L. LOUCAIDES,

Mr C. BÎRSAN,

Mr M. UGREKHELIDZE,

Mrs A. MULARONI, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 10 September 2002,

Delivers the following judgment, which was adopted on that date:

**PROCEDURE**

1. The case originated in an application (no. 42373/98) against the Republic of Hungary lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Hungarian national, Éva Bódiné Bencze (“the applicant”), on 2 June 1998.

2. The Hungarian Government (“the Government”) were represented by their Agent, Mr L. Höltzl of the Ministry of the Ministry of Justice.

3. The applicant complained under Article 6 § 1 of the Convention about the length of civil proceedings.

4. The case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention. On 12 March 2002, having obtained the parties' observations, the Court declared the application admissible.

5. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Second Section.

6. On 24 June 2002 and on 17 July 2002 the Government and the applicant, respectively, submitted formal declarations accepting a friendly settlement of the case.

**THE FACTS**

7. The applicant was born in 1931 and lives in Vác, Hungary.

8. The facts of the case, as submitted by the parties, may be summarised as follows.

In February 1993 the applicant's mother died. According to her last will, her grandchildren were the main beneficiaries of her estate, whereas the statutory heirs, her children - including the applicant, – received only the minimum legal share.

On 3 February 1994 the applicant and her siblings, four plaintiffs altogether, brought an action challenging the validity of the will. They claimed that their mother, given the deterioration of her health, had not been in full possession of her faculties.

On 29 June 1994 the District Court dismissed the plaintiffs' action. This decision was quashed on appeal and remitted to the first instance.

After various hearings and an expert evaluation of disputed items in the estate, on 28 October 1999 the District Court dismissed the plaintiffs' action. This decision was again quashed on appeal and remitted.

After further hearings and expert opinions, on 18 September 2001 the District Court gave judgment in the case partially accepting the applicant's claims.

On 3 November 2001 the applicant appealed.

The proceedings are still pending before the Pest County Regional Court.

## THE LAW

9. On 24 June 2002 the Court received the following agreement, signed by both parties, from the Government:

“With reference to Article 38 § 1 (b) of the European Convention of Human Rights, the parties in the proceedings concerning Application No. 42373/98, lodged by Ms Éva Bódiné Bencze, declare as follows:

1. The Government of Hungary will pay 1,100,000 Hungarian forints to the applicant as compensation in respect of any possible claims relating to the present application. The Government will transfer this sum directly to the applicant's bank account.

2. The applicant declares her application settled.

3. The applicant waives any further claims against the Government of Hungary relating to the present application.”

10. On 17 July 2002 the Court received the following declaration signed by the applicant:

“I acknowledge that the above settlement was accepted and signed by me.”

11. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on

respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court). It considers that these declarations contain an implicit acceptance by the parties that this case has been finalised and that, therefore, they have no intention of subsequently requesting a rehearing of the case before the Grand Chamber.

12. Accordingly, the case should be struck out of the list.

## FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;
2. *Takes note* of the parties' implicit undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 1 October 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ  
Registrar

J.-P. COSTA  
President