



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

SECOND SECTION

**CASE OF KÓSA v. HUNGARY**

*(Application no. 43352/98)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

1 October 2002

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



**In the case of Kósa 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. 43352/98) 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, Józsefné Kósa (“the applicant”), on 17 August 1998.

2. The applicant was represented by Mr I. Barbalics, a lawyer practising in Nagyatád, Hungary. The Hungarian Government (“the Government”) were represented by their Agent, Mr L. Höltzl 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 complaint concerning the length of proceedings admissible and declared the rest of the application inadmissible.

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 28 June 2002 and on 12 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 1935 and lives in Csokonyavisonta, Hungary.

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

In April 1991 the applicant requested the Barcs District Court to order a certain Mrs. M. and four other defendants to pay her compensation for pecuniary damage suffered by her on account of the defendants' having arbitrarily destroyed her fungus-infected pine-tree sapling garden, cultivated next to the defendants' similar plants. In June 1991 the defendants lodged an objection and the proceedings consequently developed into civil litigation.

After various hearings, on 29 April 1992 the District Court established, in an interim judgment, that the applicant had a right to compensation. Upon the defendants' appeal, on 27 October 1992 the Somogy County Regional Court quashed the interim judgment and remitted the case to the first-instance court.

After further hearings, on 29 October 1993 a single judge of the District Court dismissed the applicant's case. This decision was quashed on appeal by the Regional Court on 18 January 1994 and the case was again remitted.

Following hearings, the same single judge dismissed the applicant's claim on 20 April 1995. This decision was again quashed on appeal and the case remitted for a third time on 23 August 1995.

After more hearings and an expert opinion, the same single judge dismissed the applicant's claim on 22 October 1996.

On 17 January 1997 the Regional Court dismissed the applicant's appeal.

On 28 April 1998 the Supreme Court dismissed the applicant's petition for review. This decision was served in June 1998.

## THE LAW

9. On 28 June 2002 the Court received the following agreement, signed by the representatives of the Government and the applicant, 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. 43352/98, lodged by Ms Józsefné Kósa, represented by Dr István Barbalics, declare as follows:

1. The Government of Hungary will pay 1,000,000 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 19 July 2002 the Court received the following declaration signed by the applicant's representative:

“I acknowledge in writing that my client, in the present case the applicant, accepted the above settlement with the Hungarian Government.”

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