CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

CASE OF KOVÁCS v. HUNGARY

(Application no. 54457/00)

JUDGMENT

STRASBOURG

16 December 2003

FINAL

07/07/2004

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 of Kovács 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 JÖRUNDSSON,
Mr L. LOUCAIDES,
Mr C. BÎRSAN,
Mr K. JUNGWIERT,
Mr M. UGREKHELIDZE, *judges*,
and Mr T.L. EARLY, *Deputy Section Registrar*,

Having deliberated in private on 13 May and 25 November 2003,

Delivers the following judgment, which was adopted on the last–mentioned date:

PROCEDURE

1. The case originated in an application (no. 54457/00) against the Republic of Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Hungarian national, Mrs Ágnes Kovács ("the applicant"), on 1 September 1999.

2. The Hungarian Government ("the Government") were represented by their Agent, Mr L. Höltzl, Deputy State-Secretary, Ministry of Justice.

3. The applicant alleged, in particular, that the labour-law proceedings lasted an unreasonably long time, in breach of Article 6 § 1 of the Convention.

4. The application was allocated to the Second Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

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 (Rule 52 § 1).

6. By a decision of 13 May 2003 the Court declared the application partly admissible.

7. The applicant and the Government each filed observations on the merits (Rule 59 § 1).

THE FACTS

8. The applicant was born in 1937 and lives in Halásztelek, Hungary.

9. In February 1991 the applicant's employment was terminated by mutual consent. She subsequently challenged the validity of this agreement and claimed damages before the Budapest Labour Court. Her action was filed with the court on 3 May 1991. The applicant alleged that her resignation was void on account of her temporary incapacity at the time of signing the agreement with her employer.

10. On 3 July and 30 September 1991, as well as on 25 March and 22 September 1992, hearings were held. On 10 June 1993 the Labour Court suspended the proceedings pending the preparation of a medical expert opinion on the applicant's mental capacity. This opinion was submitted on 26 October 1993. In view of certain inconsistencies between this opinion and earlier opinions, the applicant was subsequently ordered to undergo an examination by the National Council of Health Sciences ("the Council"). This examination was carried out on 11 November 1994. The Council's opinion was submitted to the court on 12 January 1995.

11. The proceedings were resumed and a hearing was held on 10 October 1995. At the hearing the applicant was requested to elaborate on and quantify her claims.

12. On 16 April 1996 the Labour Court requested the Council to update its opinion. The Council's revised opinion was submitted on 11 July 1996.

13. On 29 October 1996 the Labour Court reminded the applicant of its order of 10 October 1995 requiring her to quantify her claims. She did so on 26 November 1996.

14. On 4 December 1996, 29 January, 12 March and 28 May 1997 further hearings took place. On the latter date the Budapest Labour Court delivered its judgment in which it annulled the disputed agreement and dismissed the remainder of the action.

15. The applicant's appeal of 14 November 1997 was dismissed by the Budapest Regional Court on 15 April 1998.

16. On 31 March 1999 the Supreme Court dismissed her petition for review. This decision was served on 4 May 1999.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

17. The applicant complained that the length of the proceedings in her case exceeded a reasonable time within the meaning of Article 6 § 1 of the Convention, which, in so far as relevant, reads:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

18. The Government contested this view.

A. Period to be taken into consideration

19. The Court first observes that the proceedings started in 1991 and ended with the final decision served on 4 May 1999. The case therefore lasted six and a half years following the Convention's entry into force with respect to Hungary on 5 November 1992, a period involving three levels of jurisdiction.

B. Reasonableness of the length of the proceedings

20. The Court recalls that the reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case and having regard to the criteria laid down in the Court's case-law, in particular the complexity of the case, the conduct of the applicant and of the relevant authorities, and the importance of what was at stake for the applicant in the litigation (see, for instance, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

1. Complexity of the case

21. The parties stated in their observations that the case was not particularly complex. The Court finds no reason to hold otherwise.

2. Conduct of the applicant

22. The Government argued that the applicant had contributed to the protraction of the case by failing to comply with the courts' orders. They highlighted that it had taken the applicant more than a year to react to the order of the Labour Court of 10 October 1995 requiring her to provide further particulars of her claim.

23. The applicant contested this argument.

24. The Court observes that although it took the applicant more than a year to comply with the order of 10 October 1995, an expert opinion was being prepared during this period. It is therefore reluctant to attribute any decisive significance to the applicant's lack of diligence during this period, having regard in particular to the overall length of the proceedings.

2. Conduct of the judicial authorities and what was at stake for the applicant

25. The Government submitted that the courts acted with due diligence and even accelerated the proceedings by warning the applicant to comply with the orders.

26. The applicant contested this and referred to what had been at stake for her, namely her reinstatement in her job.

27. The Court observes that the proceedings were suspended between 10 June 1993 and early 1995. During that period the only developments in the case related to the carrying out of medical examinations. As to the courts' apparent difficulties in obtaining all the necessary expert opinions, it is to be noted that the experts were acting in the context of judicial proceedings under the supervision of the judges trying the case. The judges therefore remained responsible for the preparation of the case and the conduct of the hearings within a reasonable time (*Capuano v. Italy,* judgment of 25 June 1987, Series A no. 119, p. 13, § 30). It further recalls in this connection that Article 6 § 1 imposes on Contracting States the duty to organise their judicial systems in such a way that their courts can meet the obligation to decide cases within a reasonable time (see, among other authorities, *Duclos v. France* judgment of 17 December 1996, *Reports of Judgments and Decisions* 1996-VI, pp. 2180–81, § 55 *in fine*).

28. The Court would also note that it took the Labour Court six years to deliver a first-instance decision in the case.

29. In these circumstances, the Court considers that the delay in the proceedings must be mainly attributed to the national authorities.

30. Having regard to the overall length involved and in particular to the period of inactivity of one and a half years for which the domestic courts were responsible, and given that employment litigation generally requires particular diligence on the part of the domestic courts (see *Obermeier v. Austria,* judgment of 28 June 1990, Series A no. 179, pp. 23-24, § 72; *Caleffi v. Italy,* judgment of 24 May 1991, Series A no. 206-B), the Court concludes that the applicant's case was not determined within a reasonable time. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

31. 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

32. The applicant claimed 24,500,000 Hungarian forints (HUF) plus accrued interest in respect of pecuniary and non-pecuniary damage.

33. The Government submitted that the applicant's claim was excessive.

34. The Court observes that there is no evidence of any causal link between the violation of Article 6 § 1 of the Convention found and the applicant's claim for compensation for pecuniary damage. However, it accepts that the applicant must be considered to have suffered some moral damage on account of the frustration caused by the length of the proceedings, the outcome of which was of importance for her livelihood. Making its assessment on an equitable basis and having regard to the circumstances of the case, the Court awards the applicant 6,000 euros (EUR) by way of compensation for non-pecuniary damage.

B. Costs and expenses

35. The applicant claimed HUF 509,008 in respect of costs and expenses incurred in the proceedings before the domestic authorities and the Court.

36. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 200 under this head.

C. Default interest

37. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

2. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, the following amounts, to be converted into the national currency of the respondent State at the rate applicable at the date of the settlement:
      (i) EUR 6,000 (six thousand euros) in respect of non-pecuniary damage;
      (ii) EUR 200 (two hundred euros) in respect of costs and expenses;
      (iii) any tax that may be chargeable on the above amounts;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

3. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 16 December 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY
Deputy Registrar

J.-P. COSTA
President