



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

SECOND SECTION

**CASE OF TAMÁS KOVÁCS v. HUNGARY**

*(Application no. 67660/01)*

JUDGMENT

STRASBOURG

28 September 2004

**FINAL**

***28/12/2004***

*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 Tamás 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 L. LOUCAIDES,  
Mr C. BÎRSAN,  
Mr K. JUNGWIERT,  
Mr M. UGREKHELIDZE,  
Mrs A. MULARONI, *judges*,  
and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 7 September 2004,

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

**PROCEDURE**

1. The case originated in an application (no. 67660/01) 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, Mr Tamás Kovács (“the applicant”), on 29 September 2000.

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

3. On 20 March 2003 the Court decided to communicate the application to the Government. Applying Article 29 § 3 of the Convention, it decided to rule on the admissibility and merits of the application at the same time.

**THE FACTS**

4. The applicant was born in 1955 and lives in Budapest.

*(1) Criminal proceedings instituted in 1993*

5. On 18 February 1993 the applicant, an examiner at the Road Authority, was arrested by officers of the Veszprém County Police Department. He was charged with having issued false certificates in his role as a member of an organised group involved in the legalisation of unlawfully acquired cars. He was in pre-trial detention between 22 February and 7 May 1993 and interrogated on 19 and 24 February, 9 and 26 March, 7 May and 29 June 1993. The investigations were closed on 13 December 1993. By then, more than 100 suspects and 250 witnesses had

been heard, house searches were carried out and expert opinions were obtained.

6. On 9 June 1994 the Veszprém District Public Prosecutor's Office preferred a bill of indictment against the applicant and 88 other defendants.

7. Between 22 November 1994 and 1 December 1995 the Veszprém District Court held 68 hearings. The District Court heard the defendants and 77 witnesses. The case-file of the trial amounted to 2,000 pages. It delivered and read out its 245-page long judgment on 1 and 14 December 1995 and on 30 January 1996. The District Court convicted the applicant of charges of bribery, forgery and misuse of fire arms and ammunition, and sentenced him to 2 years and 6 months' imprisonment. The applicant appealed, together with numerous other defendants.

8. The competent Veszprém County Regional Court held six hearings. On 9 February 1997 it quashed the District Court's judgment in respect of eleven defendants, including the applicant, and remitted the case to the first-instance court. On 16 July 1998 the Veszprém District Public Prosecutor's Office preferred a supplementary bill of indictment extending the charges against the applicant to an offence of receiving stolen goods of considerable value.

9. In the resumed proceedings, the District Court held hearings on 6 and 7 October 1998, 25 February, 15 June, 7 July, 26 October and 16 November 1999. On 15 December 1999 it delivered a judgment. The applicant was convicted of charges of bribery, forgery of official documents, receiving stolen goods and abuse of fire-arms. Despite the applicant's conviction for a further offence, the Regional Court reduced his sentence to 2 years' imprisonment, suspended for a 4-year probationary period. The Regional Court emphasised that the reduction of the sentence was exclusively due to the "unreasonably long duration of the proceedings".

10. The applicant appealed. On 12 October 2000 the Regional Court upheld his conviction. This judgment was served on the applicant on 12 June 2001.

*(2) Criminal proceedings instituted in 1994*

11. On 9 May 1994 another set of criminal proceedings was instituted against the applicant in Budapest. In January 1996 the Budapest XIV District Public Prosecutor's Office preferred a bill of indictment charging the applicant with offences committed in a context similar to that under (1) above.

12. On 2 April, 9 September and 10 December 1997, 31 March, 10 September and 2 November 1998 and 5 January 1999, the Pest Central District Court held hearings in the case. On 25 January 1999 the District Court delivered a judgment. It convicted the applicant of bribery and forgery of official documents, and sentenced him to a fine and 1 year and 2

months' imprisonment. The execution of the prison sentence was suspended for 4 years.

13. The applicant appealed. On 11 February 2000 the Budapest Regional Court upheld his conviction. The judgment was served on the applicant on 21 March 2000. The Government submitted the reception notice which was stamped at the despatching Budapest Post Office on 21 March 2000. The handwritten note showing its receipt by the addressee bears the same date.

*(3) Labour law proceedings*

14. On 10 May 1993 disciplinary proceedings were instituted against the applicant on account of the criminal proceedings brought against him. On 10 June 1993 the applicant's employer terminated his employment as a disciplinary measure. The applicant challenged this decision before the Budapest Labour Court on 24 June 1993.

15. The Labour Court held hearings on 20 October 1993, 30 March and 6 May 1994. On the latter date, the Labour Court allowed the applicant's challenge. The applicant's employer appealed.

16. The Regional Court held hearings on 22 March and 1 November 1995. On 17 November 1995 the Budapest Regional Court modified the Labour Court's decision and dismissed the applicant's claim. On 16 January 1996 the applicant pursued a petition for review.

17. On 26 June 1996 the Supreme Court quashed the Labour and Regional Courts' decisions and remitted the case to the first-instance court, holding that the outcome of the criminal proceedings should be taken into account when delivering the judgment.

18. On 29 April 1997 the applicant requested the postponement of a hearing scheduled for 11 June 1997 and requested that the proceedings be suspended. On 11 June 1997 the Labour Court suspended the proceedings pending the outcome of the criminal case and ordered the parties to submit all relevant documents without delay when the latter was concluded.

19. On 12 April 2001 the applicant informed the Labour Court that his legal counsel had ceased to represent him. He failed to mention that, meanwhile, the criminal proceedings had ended.

20. On 15 February 2002 the defendant submitted the final judgment convicting the applicant and requested that the case be continued.

21. In the resumed proceedings, on 27 February 2002, the Labour Court ordered the parties to submit their motions for evidence. At the hearing on 24 June 2002 the Labour Court repeatedly ordered the applicant to submit his motion for evidence. The applicant complied with the order on 16 September 2002.

22. On 21 October 2002 the Labour Court dismissed the applicant's action. The judgment was served on the applicant on 4 November 2002 and became final on 22 November 2002.

## THE LAW

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

23. The applicant complained that the length of the proceedings had been incompatible with the “reasonable time” requirement, provided in Article 6 § 1 of the Convention, which reads as follows:

“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal...”

24. The Government contested that argument. As regards the first proceedings, they claimed that the applicant could not be regarded as a victim for the purposes of Article 34 of the Convention. In this respect they pointed out, that the domestic courts not only accepted that the proceedings exceeded a reasonable time but they significantly reduced his sentence solely on this ground. As regards the second proceedings, the Government submitted that they ended with the service of the final decision more than six months prior to the introduction of the application. As to the third proceedings, they claimed that the applicant contributed to the protraction of the case to a great extent.

25. The periods to be taken into consideration began on 18 February 1993, 9 May 1994 and 10 May 1993 and ended on 12 June 2001, 21 March 2000 and 4 November 2002, respectively, with the service of the judgments. They thus lasted 8 years and 4 months, 5 years and 10 months and 9 years and 8 months, respectively.

#### A. Admissibility

26. As regards the first proceedings, the Court recalls that the Regional Court held that the duration of the proceedings had been excessive and reduced the applicant's sentence from 2 years and 6 months' to two years' imprisonment, suspended for a 4-year probationary period. It emphasized that the mitigation of the sentence was solely due to the unreasonable length of the proceedings. Against this background, the Court finds that the applicant obtained adequate redress for the alleged violation of his right under Article 6 § 1 of the Convention to a hearing within a reasonable time. Accordingly, he can no longer claim to be a victim, for the purposes of Article 34, of a violation of Article 6 § 1. This complaint must therefore be rejected as being manifestly ill-founded pursuant to Article 35 §§ 3 and 4 of the Convention (see *Lie and Bernsten*, (dec.), no. 25130/94).

27. As regards the second proceedings, the Court recalls that Article 35 § 1 of the Convention stipulates that:

“The Court may only deal with the matter ... within a period of six months from the date on which the final decision was taken.”

28. The Government have provided evidence to support their submission that the decision was served on 21 March 2000. In particular, they have asserted that the reception notice was stamped at the despatching Budapest Post Office on 21 March 2000, and the handwritten note showing its receipt by the addressee bears the same date.

29. In these circumstances, the Court considers that the service of the final decision took place on 21 March 2000. Accordingly, the six-month time-limit must be taken to have run from that date. However, the applicant lodged his application only on 29 September 2000, i.e. more than six months later. It follows that this complaint has been introduced outside the six-month time-limit prescribed by Article 35 § 1 and must be rejected pursuant to Article 35 § 4 of the Convention.

30. As regards the applicant's complaint concerning the third proceedings, the Court considers that it is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

## **B. Merits**

31. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). The Court reiterates that special diligence is necessary in employment disputes (*Ruotolo v. Italy*, judgment of 27 February 1992, Series A no. 230-D, p. 39, § 17).

32. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

33. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

There has accordingly been a breach of Article 6 § 1.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

34. 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

35. The applicant requested the Court to establish the amount of his non-pecuniary damage.

36. The Government did not express an opinion on the matter.

37. The Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, and having regard to the delays attributable to the applicant, it awards him EUR 5,000 under that head.

### B. Costs and expenses

38. The applicant did not enumerate his costs and expenses. The Court therefore makes no award under this head.

### C. Default interest

39. 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

1. *Declares* by 6 votes to 1 the complaint concerning the excessive length of the labour law proceedings admissible and the remainder of the application inadmissible;
2. *Holds* by 6 votes to 1 that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* by 6 votes to 1
  - (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, EUR 5,000 (five thousand euros) in

respect of non-pecuniary damage, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable;

(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;

Done in English, and notified in writing on 28 September 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ  
Registrar

J.-P. COSTA  
President