



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

SECOND SECTION

**CASE OF MIKLÓS v. HUNGARY**

*(Application no. 21742/02)*

JUDGMENT

STRASBOURG

11 October 2005

**FINAL**

*11/01/2006*

*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 Miklós 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 R. TÜRMEN,

Mr K. JUNGWIERT,

Mr M. UGREKHELIDZE,

Mrs A. MULARONI,

Mrs E. FURA-SANDSTRÖM, *judges*,

and Mr S. NAISMITH, *Deputy Section Registrar*,

Having deliberated in private on 20 September 2005,

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

## PROCEDURE

1. The case originated in an application (no. 21742/02) 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 Imre Miklós (“the applicant”), on 30 November 2000.

2. The applicant was represented by Mr Gy. Tímár, a lawyer practising in Budapest. The Hungarian Government (“the Government”) were represented by their Agent, Mr L. Höltzl, Deputy State-Secretary, Ministry of Justice.

3. On 30 June 2004 the Court decided to communicate the complaint concerning the length of the proceedings 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

### THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1946 and lives in Tököl, Hungary.

5. On 9 November 1994 criminal proceedings were instituted against the applicant, a bank manager, and his accomplices on suspicion of fraud. In the ensuing proceedings, the applicant was assisted by defence counsel of his choice.

On 25 September 1996 the Borsod-Abaúj-Zemplén County Public Prosecutor's Office preferred a bill of indictment against the applicant and two other individuals charging them with fraud and other offences.

6. After the completion of the bill of indictment, between 1 April and 21 October 1997 the Borsod-Abaúj-Zemplén County Regional Court, sitting as a first-instance court, held nine hearings. Subsequently the proceedings were halted on account of the non-appearance of a co-accused for trial and an unsuccessful motion for bias filed by the latter. The hearings resumed on 5 January 1999. Between that date and 2 June 1999 the court held 29 hearings altogether.

7. On 2 June 1999 the Regional Court convicted the applicant of aggravated mismanagement and sentenced him to two years' imprisonment. The Regional Court relied on the testimonies of numerous witnesses, the opinions of experts and documentary evidence.

8. On 28 September 2000 the Supreme Court upheld the applicant's sentence.

9. On 20 March 2001 the review bench of the Supreme Court rejected the applicant's petition for review.

## THE LAW

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

10. 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 ... any criminal charge against him ..., everyone is entitled to a fair ... hearing within a reasonable time by [a] ... tribunal..."

11. The Government contested that argument.

12. The period to be taken into consideration began on 9 November 1994 and ended on 20 March 2001. It thus lasted about six years and four months for three levels of jurisdiction.

#### A. Admissibility

13. The Court notes that this complaint 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**

14. 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).

15. 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).

16. 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 in respect of the length of the proceedings.

## **II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION**

### **Admissibility**

17. Relying on Articles 6 and 14 of the Convention, the applicant complains in essence that the domestic courts wrongly convicted him.

18. The Court reiterates that, according to Article 19 of the Convention, its duty is to ensure the observance of the engagements undertaken by the Contracting Parties to the Convention. In particular, it is not its function to deal with errors of fact or law allegedly committed by a national authority or court unless and in so far as they may have infringed rights and freedoms protected by the Convention. Moreover, while Article 6 of the Convention guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and the national courts (see, among other authorities, *García Ruiz v. Spain* [GC], judgment of 21 January 1999, *Reports of Judgments and Decisions* 1999-I, pp. 98-99, § 28).

19. In the present case, the Court finds that an examination of the applicant’s submissions does not disclose any appearance that the courts lacked impartiality or that the proceedings were otherwise unfair, or of a violation of his other Convention rights.

It follows that this complaint is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4 of the Convention.

### III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

20. 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**

21. The applicant claimed 35,530 euros (EUR) in respect of pecuniary and EUR 60,000 in respect of non-pecuniary damage.

22. The Government found the applicant’s claims excessive.

23. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, the Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards award him EUR 1,500 under that head.

#### **B. Costs and expenses**

24. The applicant also claimed EUR 4,250 for the costs and expenses incurred before the domestic courts and the Court.

25. The Government contested the claim.

26. 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 applicant the sum of EUR 500 under this head.

#### **C. Default interest**

27. 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. *Declares* the complaint concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 1,500 (one thousand five hundred euros) in respect of non-pecuniary damage as well as EUR 500 (five hundred euros) for costs and expenses, 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 amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 11 October 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. NAISMITH  
Deputy Registrar

J.-P. COSTA  
President