CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

CASE OF MEZEI v. HUNGARY

(Application no. 30330/02)

JUDGMENT

STRASBOURG

8 November 2005

FINAL

08/02/2006

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 Mezei 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,
Ms D. JOČIENĖ,
Mr D. POPOVIĆ, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 11 October 2005,

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

PROCEDURE

1. The case originated in an application (no. 30330/02) 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, Ms Anna Mezei ("the applicant"), on 30 June 2002.

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

3. On 17 December 2003 the Court decided to communicate the application. 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 1947 and lives in Budapest.

A. Administrative litigation

5. In September 1997 a building permit was issued to the applicant's neighbour, which was amended on 6 October 1997. On 26 January 1998 the Budapest Administrative Office dismissed the applicant's administrative appeal against these decisions.

6. On 19 March 1998 the applicant filed an action with the Pest Central District Court challenging the administrative decisions. The administrative case-file was transferred to the District Court on 6 April 1998, which held a hearing on 16 October 1998.

7. Meanwhile, an additional permit was issued to the neighbour on 23 June 1998 which was upheld by the Administrative Office on 16 November 1998. On 24 November 1998 the applicant filed an action against this decision and requested that the two cases be joined.

8. On 10 December 1998 the District Court held a hearing and joined the two actions.

9. On 26 January 1999 the case was transferred to the competent Budapest Regional Court. The latter held hearings on 12 May and 1 December 1999. On 28 February 2000 it appointed an expert architect. The expert submitted his opinion on 14 April 2000.

10. On 11 May and 5 November 2001 hearings were held. On 16 May, 10 September, 6 and 19 December 2001 the applicant submitted further particulars of her claims; she also requested that a hearing scheduled for 3 September 2001 be postponed.

11. On 14 January 2002 the Regional Court quashed the administrative decisions and ordered the authorities to re-examine the case.

12. On 11 February 2002 the applicant appealed to the Supreme Court. After having been instructed to do so, the applicant re-introduced her appeal, this time countersigned by a lawyer, on 6 November 2002.

13. On 31 March 2004 the Supreme Court upheld the first-instance decision.

B. Action in damages

14. In 2002 the applicant brought an action in damages against the neighbour in question. On 27 August and 12 December 2002 the Budapest II/III District Court held hearings.

15. The expert architect appointed in the case submitted her opinion in February 2003. Further hearings took place on 13 February, 17 April and 7 October 2003. After the applicant's request to have it suspended pending the outcome of the above administrative litigation, the case appears to be still pending.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION IN RESPECT OF THE LENGTH OF THE ADMINISTRATIVE PROCEEDINGS

16. The applicant complained that the length of the administrative 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 ..., everyone is entitled to a fair ... hearing within a reasonable time by [a] ... tribunal..."

17. The Government contested that argument.

18. The period to be taken into consideration began on an unspecified date between 6 October 1997 and 26 January 1998, when the applicant challenged the first-instance administrative decision, and ended on 31 March 2004. It thus lasted approximately six and a half years for one administrative instance and two levels of jurisdiction.

A. Admissibility

19. 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

20. 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).

21. 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).

22. 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. The Court notes in particular the delay before the Supreme Court. 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. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

23. The applicant also complained that the proceedings concerning her action in damages lasted an unreasonably long time. Moreover, she submitted that the courts' procedure was not fair in either case and that the decisions given amounted to an interference with her rights under Article 1 of Protocol No. 1.

A. Admissibility

The Court observes that the proceedings in question started in June 2002 and appear to be pending after a suspension. Thus they have so far lasted somewhat more than three years. The Court is satisfied that they have not exceeded a reasonable time within the meaning of Article 6 § 1 of the Convention.

As regards the outcome of the administrative litigation, the Court observes that on 31 March 2004 the Supreme Court upheld the District Court's decision quashing the impugned administrative decisions. It follows that the applicant cannot claim to be a victim of a violation of her rights under the Convention in this connection.

The Court concludes that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4 of the Convention.

Moreover, the Court observes that the case concerning the applicant's action in damages is still pending. The complaints about these proceedings are therefore premature and must be rejected for non-exhaustion of domestic remedies, pursuant to Article 35 §§ 1 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. 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

25. The applicant claimed pecuniary and non-pecuniary damage, in unspecified amounts.

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

27. The Court observes that the applicant did not submit a quantified claim for pecuniary damage. Accordingly, it considers that there is no call to award her any sum on that account. However, it considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards award her EUR 1,000 under that head.

B. Costs and expenses

28. The applicant made no claim under this head.

C. Default interest

29. 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 administrative 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 1,000 (one 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;

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

Done in English, and notified in writing on 8 November 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President