CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

CASE OF CSÍK v. HUNGARY

(Application no. 33255/02)

JUDGMENT

STRASBOURG

11 April 2006

FINAL

13/09/2006

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 Csík 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 V. BUTKEVYCH,
Mr M. UGREKHELIDZE,
Mrs A. MULARONI, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 21 March 2006,

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

PROCEDURE

1. The case originated in an application (no. 33255/02) 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 János Csík ("the applicant"), on 11 June 2002.

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

3. On 28 April 2005 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

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

5. The applicant was employed by a construction co-operative; his duty was to disinfect pieces of wood with chemicals. On account of various illnesses which the applicant alleged were caused by this activity, he suffered a 40% disability. In September 1989 he instituted proceedings in the Budapest Labour Court. He claimed that his diseases had been caused by the chemicals and that his former employer should pay him compensation. On 20 October 1990 the Labour Court dismissed the action. This judgment was quashed by the Budapest Regional Court on 8 January 1992. The case was remitted to the first instance court.

6. In the resumed proceedings, the respondent employer was replaced by its successor. Between 13 October 1992 and 22 February 1994, the Labour

Court held five hearings and obtained an opinion from the Institute of Forensic Medicine. On that date it delivered a judgment and dismissed the applicant's action. On 9 September 1994 the applicant appealed.

7. After a hearing on 6 September 1995, on 28 February 1996 the Regional Court dismissed the applicant's appeal.

8. Following the applicant's successful request of 13 August 1996 to have his case re-opened, the Labour Court held hearings on 5 December 1996, and 24 April and 5 June 1997. By 28 September 1998 the opinions of further two experts were obtained. Another hearing was held on 31 March 1999.

9. On 8 September 1999 the Labour Court dismissed the applicant's action, holding that the respondent was not liable for the applicant's sickness.

10. On 30 March 2000 the Regional Court dismissed the applicant's appeal. On 13 October 2000 the applicant filed a petition for review. On 16 January 2001 the Supreme Court appointed a legal-aid lawyer for him. On 3 April it scheduled a hearing for 14 November 2001.

11. On 6 April 2001 the liquidator of the successor to the applicant's former employer informed the Supreme Court that the respondent had been liquidated on 1 June and deleted from the company register on 7 October 2000. On 10 May 2001 the Supreme Court interrupted the proceedings until the respondent's successor joined the proceedings.

12. On 18 September 2001 the applicant requested that the liquidator be allowed to join the proceedings as the defendant's successor.

13. On 7 November 2001 the Supreme Court dismissed the applicant's request, observing that the liquidator was not the successor.

14. In separate proceedings, on 7 January 2002 the applicant requested that the proceedings resulting in the defendant's liquidation be re-opened, since he had never been informed of them. On 1 February 2002 the Regional Court's Economic *Collegium* dismissed this request. On 28 April 2003 the Supreme Court dismissed his appeal since the request was incompatible *ratione materiae* with the relevant provisions of the Code of Civil Procedure and Act no. XLIX of 1991 ("the Insolvency Act"). In its reasoning, the Supreme Court made reference to the fact that, under sections 20 and 82(g) of Act no. CXLI of 2000 on New Co-operatives, the respondent had ceased to exist *ipso iure* without a successor (section 1(3) of the Insolvency Act).

THE LAW

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

15. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement of Article 6 § 1 of the Convention, which reads as follows:

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

16. The Government contested that argument, asserting that the delay which occurred in the case subsequent to 7 November 2001 had been due to the fact that no successor had been identified to replace the defendant.

17. The period to be taken into consideration began only on 5 November 1992, when the recognition by Hungary of the right of individual petition took effect. However, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time. The Court observes that the case had already been pending for more than three years on that date.

18. Observing that the defendant had ceased to exist without a successor and therefore the applicant was not in a position to challenge (by identifying one) the Supreme Court's order to interrupt the proceedings (paragraphs 11 to 14 above), the Court considers that the period in question ended on 7 November 2001 when the Supreme Court executed the last procedural act in the case. The period to be taken into account therefore lasted nine years for 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). 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), a consideration particularly relevant in the present case, whose subject matter was compensation for a disabling occupational illness.

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 convincing 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. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

23. The applicant also complained, without providing any specific arguments or relying on any particular provisions of the Convention, that the proceedings were not fair.

24. Assuming exhaustion of domestic remedies, the Court considers that there is nothing in the case file indicating that the courts lacked impartiality or that the proceedings were otherwise unfair. It follows 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.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. 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

26. The applicant claimed 100 million Hungarian forints[1] (HUF) in respect of non-pecuniary damage. In respect of pecuniary damage, he claimed altogether HUF 220 million[2] – a sum allegedly corresponding to the income lost under various titles and to the loss he suffered when, due to his ill-health, he had to sell his real property – together with a monthly allowance of HUF 150,000[3] payable in arrears from 1986 onwards.

[1] EUR 395,000
[2] EUR 869,000

27. The Government contested these claims.

28. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it considers that the applicant must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards him 8,000 euros (EUR) under that head.

B. Costs and expenses

29. Without quantifying his claims, the applicant sought the reimbursement of the costs and expenses incurred before the domestic courts and the Court.

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

31. The Court considers it reasonable to award the applicant, who was not represented by a lawyer, the sum of EUR 500 under this head.

C. Default interest

32. 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 8,000 (eight thousand euros) in respect of non-pecuniary damage and EUR 500 (five hundred euros) in respect of 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

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[3] EUR 593

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 April 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President