



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

SECOND SECTION

**CASE OF MOHAI v. HUNGARY**

*(Application no. 30089/03)*

JUDGMENT

STRASBOURG

11 April 2006

**FINAL**

*11/07/2006*

*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 Mohai 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 I. CABRAL BARRETO,

Mr R. TÜRMEŒ,

Mr V. BUTKEVYCH,

Ms D. JOČIENĚ,

Mr D. POPOVIĆ, *judges*,

and Mrs S. DOLLĚ, *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. 30089/03) 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 Eszter Brigitta Mohai (“the applicant”), on 8 August 2003.

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

3. On 14 June 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 1973 and lives in Verpelét.

5. On 21 May 1991 criminal proceedings were instituted against the applicant and her accomplices on charges of robbery and other offences. She was in detention on remand from 21 May 1991 until 19 May 1992.

6. Meanwhile, on 21 January 1992 a bill of indictment was preferred. Between 15 May 1992 and 1 October 1996, several hearings took place before the Pest Central District Court. On that last date the proceedings were suspended since some of the defendants could not be summoned.

7. On 5 March 2002 an arrest warrant was issued against the applicant and another defendant. On 29 April 2002 the applicant was arrested but released the next day.

8. On 6 May 2002 the proceedings were partially discontinued insofar as they concerned certain time-barred offences.

9. After a hearing on 21 January 2003, on 11 April 2003 the District Court sentenced the applicant to one year's imprisonment, suspended for a year. In the absence of appeals, this judgment became final on 14 April and was served on 7 August 2003.

## THE LAW

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

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

11. The Government contested that argument.

12. 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 proceedings had already lasted almost one and a half years by that date.

The period in question ended on 7 August 2003. It thus lasted ten years and nine months for one level 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 (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II)

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 *Pélissier and Sassi*, cited above).

16. 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 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

17. The applicant also complained under Article 5 § 1 that her 2002 detention on remand was unjustified.

18. The Court observes that the applicant’s detention ended on 30 April 2002. However, the application was introduced only on 8 August 2003, i.e. outside the six-month time-limit laid down in Article 35 § 1 of the Convention. It follows that this part of the application must be rejected pursuant to Article 35 §§ 1 and 4 of the Convention.

## III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

19. 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

20. The applicant claimed 8,000 euros (EUR) in respect of non-pecuniary damage.

21. The Government contested the claim.

22. The Court considers that it should award the full sum claimed.

## **B. Costs and expenses**

23. The applicant also claimed 681,500 Hungarian forints<sup>1</sup> for the costs and expenses incurred before the Court.

24. The Government contested the claim.

25. 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 1,500.

## **C. Default interest**

26. 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 1,500 (one thousand 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 rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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<sup>1</sup> Eur 2,700

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