



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

SECOND SECTION

**CASE OF VONDRATSEK v. HUNGARY**

*(Application no. 39073/02)*

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 Vondratsek 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. TÜRMEŒ,

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. 39073/02) 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, Mrs Diána Vondratsek (“the applicant”), on 4 October 2002.

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

3. On 11 May 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 1945 and lives in Budapest.

5. On 27 January 1986 the applicant instituted proceedings against her ex-husband for the division of their matrimonial property in the Buda Central District Court.

6. The District Court held eleven hearings and appointed four experts, and, on 1 March 1990, it gave judgment. On appeal, the Budapest Regional Court held two hearings and heard another expert. On 1 July 1992 it quashed the first-instance decision and remitted the case.

7. In the resumed proceedings, the District Court held six hearings between 18 May 1993 and 27 October 1995. At the hearing on 30 January 1996, it appointed a valuation expert who presented his opinion on 26 August 1996. The opinion was completed on 3 December 1996.

8. In the period between 25 April 1996 and 20 May 1997, four further hearings took place. On 22 July 1997 another expert opinion was obtained.

9. Between 18 September 1997 and 15 April 1999, the court held ten hearings. On that date it gave judgment, ordering that the common ownership of certain real property be terminated by way of an auction, and granting the applicant the right to buy out another property.

10. On appeal, on 17 March 2000 the Budapest Regional Court changed the first-instance decision, transferring the right to buy out to the respondent.

11. On 2 June 2000 the applicant filed a petition for review which was completed on 6 December 2000.

12. On 15 April 2002 the Supreme Court upheld the second-instance decision.

## THE LAW

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

13. 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 ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal...”

14. The Government contested that argument.

15. The period to be taken into consideration only began 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. In this connection, the Court observes that the case had already been pending for six years and nine months at that point.

16. The period in question ended on 15 April 2002. It thus lasted more than nine years and five months for three levels of jurisdiction.

#### A. Admissibility

17. 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

18. 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).

19. 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).

20. 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

21. The applicant also complained about the fairness and the outcome of the proceedings. In this respect, she relied on Article 6 § 1 of the Convention, Article 1 of Protocol No. 1 and Article 5 of Protocol No. 7.

22. In so far as the applicant’s complaint may be understood to concern the assessment of the evidence and the result of the proceedings before the domestic courts, 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 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 (*García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I).

23. In the present case, the Court considers that there is nothing in the case-file indicating that the courts lacked impartiality or that the proceedings, devoid of any sign of arbitrariness, were otherwise unfair, in breach of Article 6. Moreover, the applicant’s submissions do not disclose any appearance of a violation of her other rights under the Convention or its Protocols. 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

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 25,216,000 Hungarian forints<sup>1</sup> (HUF) in respect of pecuniary and non-pecuniary damage.

26. The Government contested these claims.

27. 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 her 8,000 euros (EUR) under that head.

#### B. Costs and expenses

28. The applicant also claimed HUF 203,572<sup>2</sup> for the costs and expenses incurred before the domestic courts and the Court.

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

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

#### C. Default interest

31. 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.

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<sup>1</sup> Approx. EUR 100,000

<sup>2</sup> Approx. EUR 800

## 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 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;
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