CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

CASE OF BAKONYI v. HUNGARY

(Application no. 45311/05)

JUDGMENT

STRASBOURG

3 May 2007

FINAL

12/11/2007

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 Bakonyi v. Hungary,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Mrs F. TULKENS, *President,*
Mr A.B. BAKA,
Mr I. CABRAL BARRETO,
Mr V. ZAGREBELSKY,
Mrs A. MULARONI,
Ms D. JOČIENĖ,
Mr D. POPOVIĆ, *judges,*

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 3 April 2007,

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

PROCEDURE

1. The case originated in an application (no. 45311/05) 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 Mihály Bakonyi ("the applicant"), on 21 June 2004.

2. The Hungarian Government ("the Government") were represented by Mr L. Höltzl, Agent, Ministry of Justice and Law Enforcement.

3. On 13 March 2006 the Court decided to give notice of the application 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

4. The applicant was born in 1952 and lives in Szeged.

5. In September 1997 the applicant was dismissed from work. On 12 November 1997 he challenged the employer's decision in court.

6. After a hearing on 30 April 1998 before the Budapest Labour Court, on 4 June 1998 the case was transferred to the Pest Central District Court. This court discontinued the proceedings on 21 October 1999, because the applicant, although properly summoned, failed to appear. At his request, the case was continued on 22 February 2000 but was immediately stayed, again at his request. He demanded the continuation of the proceedings on 4 August 2000.

7. After a hearing on 26 April 2001, on 2 May 2002 the District Court found that it had no jurisdiction in the case and requested the appropriate

designation by the Supreme Court. On 22 May 2002 the Budapest Labour Court was appointed to hear the case.

8. After a hearing on 21 January 2003, on 6 May 2003 the Budapest Labour Court found for the applicant, established that his dismissal had been unlawful and awarded him compensation.

9. On appeal, on 28 November 2003 the Budapest Regional Court upheld in essence the first instance decision, increased the award, but dismissed the remainder of the applicant's compensation claims.

10. On 23 March 2004 the applicant filed a petition for review. On 26 January 2005 the Supreme Court dismissed the petition. This decision was served on the applicant on 7 March 2005.

THE LAW

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

11. The applicant complained that the length of the proceedings was 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..."

12. The Government contested that argument.

13. The period to be taken into consideration began on 12 November 1997 and ended on 7 March 2005. It thus lasted almost seven years and four months for three levels of jurisdiction.

A. Admissibility

14. 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

15. 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).]

16. 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).

17. 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

18. The applicant also complained about the outcome of the proceedings. In this connection, he relied on Articles 5, 6, 8, 9 10 and 11 of the Convention.

19. 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 (see *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I).

20. In the present case, the Court observes that there is nothing in the case file indicating that the domestic courts lacked impartiality or that the proceedings were otherwise unfair or arbitrary. Moreover, the applicant's submissions do not disclose any appearance of a violation of his other Convention rights. 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

21. 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

22. The applicant claimed 100 million euros (EUR) in respect of pecuniary and non-pecuniary damage.

23. The Government contested the claim.

24. 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 – whilst having regard to what was at stake for the applicant, but also to the delay imputable to him – it awards him EUR 3,000 under that head.

B. Costs and expenses

25. The applicant made no claim under this head.

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 3,000 (three 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 3 May 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

F. TULKENS
President