



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

SECOND SECTION

**CASE OF BORODY v. HUNGARY**

*(Application no. 44885/04)*

JUDGMENT

STRASBOURG

20 November 2007

**FINAL**

*20/02/2008*

*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 Borody 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 M. UGREKHELIDZE,

Mr V. ZAGREBELSKY,

Mrs A. MULARONI,

Mr D. POPOVIĆ, *judges*,

and Mrs F. ELENS-PASSOS, Deputy Section Registrar,

Having deliberated in private on 23 October 2007,

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

**PROCEDURE**

1. The case originated in an application (no. 44885/04) 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 Huba Borody (“the applicant”), on 7 September 2004.

2. The applicant was represented by Mr Gy. Horváth, a lawyer practising in Budapest. The Hungarian Government (“the Government”) were represented by Mr L. Hóltzl, Agent, Ministry of Justice and Law Enforcement.

3. On 11 January 2007 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****THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1939 and lives in Budapest.

5. In a real estate dispute, on 2 January 1996 Mr B. brought an action against the applicant.

6. Between 23 April 1996 and 5 July 2001, the Budapest II/III District Court held altogether 14 hearings and obtained the opinion of an expert.

7. At the hearing of 9 October 2001 the respondent introduced his counter-claim, claiming the division of common property. Further hearings took place on 7 March and 11 June 2002.

8. From 4 February 2004 the case was stayed pending the parties' attempt to reach an agreement.

9. Further hearings were held on 21 June, 28 September and 3 December 2004. On the latter date the case was again stayed at the parties' request.

10. The parties requested the resumption of the proceedings on 6 June 2005, a stay on 18 July 2005, and the scheduling of a hearing on 5 January 2006. However, since they did not appear at the hearing on 9 March 2006, the case was again stayed. After the expiry of the statutory six-month time-limit, the case ceased to exist on 9 September 2006.

## THE LAW

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

11. 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...”

12. The Government contested that argument.

13. The period to be taken into consideration began on 2 January 1996 and ended on 9 September 2006. It thus lasted over ten years and eight months. However, in the Court's view, the periods 4 February to 21 June 2004 and 3 December 2004 to 9 September 2006, which related to the staying of the procedure at the parties' request, cannot be imputed to the State. The corresponding time of altogether two years, one month and 22 days must therefore be deducted from the overall length. The relevant period is thus eight years, six months and 18 days for one level of jurisdiction.

#### A. Admissibility

14. The Court notes that the application 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).

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 application (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 circumstances. 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. APPLICATION OF ARTICLE 41 OF THE CONVENTION**

18. 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**

19. The applicant claimed 11,000 euros (EUR) in respect of non-pecuniary damage.

20. The Government contested the claim.

21. The Court considers that the applicant must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards him EUR 8,000.

### **B. Costs and expenses**

22. The applicant made no claim under that head.

### C. Default interest

23. 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 application admissible;
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, 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 20 November 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

F. ELEN-PASSOS  
Deputy Registrar

F. TULKENS  
President