



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

1959 · 50 · 2009

SECOND SECTION

CASE OF HORVÁTH AND OTHERS v. HUNGARY

(Application no. 45407/05)

JUDGMENT

*This judgment was revised in accordance with Rule 80 of the Rules of Court
in a judgment of 17 May 2011*

STRASBOURG

24 November 2009

FINAL

24/02/2010

*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 Horváth and Others v. Hungary,

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

Françoise Tulkens, *President*,

Vladimiro Zagrebelsky,

Danutė Jočienė,

Dragoljub Popović,

András Sajó,

Nona Tsotsoria,

Kristina Pardalos, *judges*,

and Sally Dollé, *Section Registrar*,

Having deliberated in private on 3 November 2009,

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

PROCEDURE

1. The case originated in an application (no. 45407/05) 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 sixteen Hungarian nationals and two Hungarian companies (“the applicants”), on 12 December 2005.

2. The applicants were represented by Mr P. Kussinszky, a lawyer practising in Budapest. The Hungarian Government (“the Government”) were represented by Mr L. Höltzl, Agent, Ministry of Justice and Law Enforcement.

3. On 22 October 2008 the President of the Second Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3).

THE FACTS

THE CIRCUMSTANCES OF THE CASE

4. The applicants are sixteen Hungarian nationals and two Hungarian companies (see list in Annex).

5. In June 1997 the applicants brought an official liability action against the Budapest IXth District Municipality. The Budapest Regional Court held several hearings and obtained the opinions of experts. It stayed the

procedure for altogether one year and five months pending the successions of two plaintiffs who had died in the meantime.

6. On 5 May 2003 the Regional Court gave judgment. On 18 November 2003 the Budapest Court of Appeal quashed this decision and remitted the case.

7. In the resumed proceedings, several hearings took place and the opinion of an expert was obtained. According to the information in the case file, the case is still pending before the first-instance court.

THE LAW

8. The applicants complained that the length of the proceedings had been incompatible with the “reasonable time” requirement of Article 6 § 1 of the Convention. The Government contested that argument.

9. The Court observes that the period to be taken into consideration has so far lasted over twelve years and five months. Of this time, one year and five months corresponding to successions, not imputable to the State, must be deducted. However, the remaining period still exceeds eleven years for two levels of jurisdiction. In view of such lengthy proceedings, the application must be declared admissible.

10. 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, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). 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 finds 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.

11. Relying on Article 41 of the Convention, each applicant, except for Mrs Andrásné Schön, claimed twenty thousand euros (EUR) in respect of non-pecuniary damage. Mrs Schön claimed EUR 40,000. The Government contested these claims. The Court considers that the applicants must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards them each EUR 6,000 under that head, except for Ms Katalin Visontai, Mr Kálmán Visontai and Dr Kálmán Visontai, to whom it awards EUR 6,000 jointly. Furthermore, having regard to the fact that the proceedings in question are still pending before the domestic courts, the Court considers that the most appropriate form of redress would be to bring them to a conclusion as soon as possible, by conducting them in accordance

with the requirements of Article 6 § 1 of the Convention (see *Uğuz v. Turkey*, no. 31932/03, § 30, 13 December 2007).

12. The applicants also claimed EUR 2,020 for the costs and expenses incurred before the Court. This amount corresponds to 16 hours of work spent by their lawyer on the case (4 hours studying documents, 4 hours of case-law research, 4 hours of client consultations and 4 hours drafting submissions), billable at an hourly rate of EUR 120, plus EUR 100 of clerical costs. The Government contested the claim. According to the Court's case-law, an applicant is entitled to the reimbursement of 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 documents in its possession and the above criteria, the Court finds it reasonable to award the sum of EUR 1,500 to the applicants, jointly, for the proceedings before the Court.

13. 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, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
 - (i) to each of the applicants, except for Ms Katalin Visontai, Mr Kálmán Visontai and Dr Kálmán Visontai, EUR 6,000 (six thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) to Ms Katalin Visontai, Mr Kálmán Visontai and Dr Kálmán Visontai jointly, EUR 6,000 (six thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (iii) to the applicants jointly, EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses;

to be converted into Hungarian forints at the rate applicable at the date of settlement;

(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 applicants' claim for just satisfaction.

Done in English, and notified in writing on 24 November 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President

ANNEX**List of applicants**

<u>Name</u>	<u>Domicile</u>
1. Horváth Kálmán	Budapest
2. Büfé-Land Bt.	Budapest
3. Fodor Tamás	Budapest
4. Urbán Károly	Budapest
5. Homola és Csang Kft.	Budakeszi
6. Schön Andrásné	Budapest
7. Rózsa András	Budapest
8. Mátrai Antal	Budapest
9. Szász Béla	Budapest
10. Vagyóczky Mihályné	Budapest
11. Kovács Gábor	Budapest
12. Kapitány Karolina	Budapest
13. Kárpáti Györgyné	Budapest
14. Takács Lászlóné	Budapest
15. Dávid Lászlóné	Budapest
16. Visontai Katalin	Budapest
17. Visontai Kálmán	Budapest
18. dr. Visontai Kálmán	Budapest