



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

SECOND SECTION

CASE OF MEDGYES AND RUSZ v. HUNGARY

(Application no. 14308/07)

JUDGMENT

STRASBOURG

8 June 2010

FINAL

08/09/2010

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Medgyes and Rusz v. Hungary,

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

Françoise Tulkens, *President*,

Danutė Jočienė,

Dragoljub Popović,

András Sajó,

Nona Tsotsoria,

Kristina Pardalos,

Guido Raimondi, *judges*,

and Sally Dollé, *Section Registrar*,

Having deliberated in private on 18 May 2010,

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

PROCEDURE

1. The case originated in an application (no. 14308/07) 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 two Hungarian nationals, Mr Gábor Medgyes and Mr János Rusz (“the applicants”), on 21 March 2007.

2. The applicants were represented by Ms S. Gabos, 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 8 February 2010 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 were born in 1949 and 1941 respectively and live in Budapest.

5. On 27 May 1992 criminal proceedings were instituted against the applicants. On 19 July 1994 the Budapest Public Prosecutor's Office preferred a bill of indictment, charging them with fraud and forgery of documents.

6. On 9 January 2002 the Pest Central District Court acquitted the applicants. On 12 November 2002 the Budapest Regional Court quashed this decision and remitted the case to the first-instance court. In the resumed proceedings, three hearings were held. On 7 September 2005 the District Court again acquitted the applicants. On 29 September 2006 the Regional Court upheld this decision.

THE LAW

7. 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 did not contest that argument.

8. 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. The Court notes that the proceedings had already been pending for several months on that date. The period in question ended on 29 September 2006. It thus lasted almost thirteen years and eleven months for two levels of jurisdiction. In view of such lengthy proceedings, this complaint must be declared admissible.

9. 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, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II). 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.

10. Relying on Article 41 of the Convention, each of the applicants claimed 12,000 euros (EUR) in respect of non-pecuniary damage. The Government did not express an opinion on the matter. The Court considers that the applicants must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards them the full sum claimed.

11. Moreover, each of the applicants claimed EUR 1,000 for the costs and expenses incurred before the Court. The Government did not express an opinion on the matter.

12. 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 considers it reasonable to award the applicants, jointly, the sum of EUR 500 under this head.

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, to be converted into Hungarian forints at the rate applicable at the date of settlement:
 - (i) EUR 12,000 (twelve thousand euros) to each of the applicants, plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 500 (five hundred euros) to the applicants jointly, plus any tax that may be chargeable to the applicants, in respect of costs and expenses;
 - (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 8 June 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President