

New remedy for protracted civil proceedings deemed effective

In its decision in the case of [Szaxon v. Hungary](#) (application no. 54421/21) the European Court of Human Rights has, unanimously, declared the application inadmissible for [non-exhaustion of domestic remedies](#). The decision is final.

The case concerns the effectiveness of the new compensatory remedy introduced by Hungary for protracted civil proceedings, as in the lengthy divorce proceedings involving Mr Szaxon, which were started in 2009 by his wife and only concluded before the Constitutional Court in 2022.

The Court held that Act no. XCIV of 2021 set out an effective remedy for protracted civil proceedings, and that Mr Szaxon was required to lodge an application with the domestic courts under that Act before coming to Strasbourg.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicant, József Attila Szaxon, is a Hungarian national who was born in 1947 and lives in Bábolna.

In February 2009, Mr Szaxon's wife filed for divorce, which was granted by the Komárom District Court in May of that year. However, the division of the marital property was not decided. In March 2019 a first-instance decision was delivered on that matter, and an appellate decision was given by the Győr Court of Appeal in October 2020. Following an application for judicial review by Mr Szaxon, the *Kúria* upheld those two decisions in June 2021. A complaint by Mr Szaxon to the Constitutional Court was rejected in June 2022.

On 15 June 2021 Parliament passed Act no. XCIV of 2021 on the Enforcement of Pecuniary Satisfaction Relating to the Protractedness of Civil Contentious Proceedings, which introduced a compensatory remedy for protracted civil proceedings. The Act was intended as a response to the judgment adopted by the European Court in the case of [Gazsó v. Hungary](#) (no. 48322/12). It entered into force on 1 January 2022.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 26 October 2021.

Relying on Article 6 § 1 (right to a fair trial) and Article 13 (right to an effective remedy), Mr Szaxon complained of the length of proceedings in his case and of the lack of a remedy for that complaint.

The decision was given by a Chamber of seven judges, composed as follows:

Marko **Bošnjak** (Slovenia), *President*,
Péter **Paczolay** (Hungary),
Alena **Poláčková** (Slovakia),
Lətif **Hüseynov** (Azerbaijan),
Ivana **Jelić** (Montenegro),
Erik **Wennerström** (Sweden),
Raffaele **Sabato** (Italy),

and also Renata **Degener**, *Section Registrar*.

Decision of the Court

Article 6 § 1

Noting in particular the findings of the Committee of Ministers of the Council of Europe, the Court stated that it was satisfied that Act no. XCIV of 2021 guaranteed in principle genuine redress for Convention violations caused by protracted contentious civil proceedings, meeting the criteria set out in *Gazsó*.

There was nothing in Mr Szaxon's arguments that would cause it to change that opinion. There was domestic case-law available online in respect of the Act which showed it functioning. Proceedings seem to have been conducted in a timely manner. The Court was satisfied that the compensation awarded, even if lower than the Court's awards in similar cases, was at acceptable levels bearing in mind the State's wide discretion ("margin of appreciation") in such matters. Exclusion of constitutional complaints from the compensation scheme did not render the remedy ineffective.

The Court did point out that if the practice of the domestic courts subsequently proved not to be compliant with the Convention, it would be willing to review its approach.

At present, however, the Court found that the remedy under the Act was effective and capable of affording adequate redress for any violation that had already occurred. Pursuant to Article 35 § 1 (admissibility) Mr Szaxon was therefore required to lodge a complaint under that Act before the national courts.

As a consequence, this part of his application was inadmissible for non-exhaustion of domestic remedies.

Article 13

As the new remedy represented by Act no. XCIV of 2021 was in principle effective for the purposes of Article 35 § 1 of the Convention, the Court ruled that the complaint under Article 13 was manifestly ill-founded.

The decision is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.