CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

## SECOND SECTION

## DECISION

Application no. 13381/02
by Imre Pál ÁGH
against Hungary

The European Court of Human Rights (Second Section), sitting on 14 October 2003 as a Chamber composed of

Mr J.-P. COSTA, *President*,
Mr A.B. BAKA,
Mr GAUKUR JÖRUNDSSON,
Mr K. JUNGWIERT,
Mr V. BUTKEVYCH,
Mrs W. THOMASSEN,
Mr M. UGREKHELIDZE, *judges,*

and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the above application introduced on 10 January 2001 and registered on 26 March 2002,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

## THE FACTS

The applicant, Mr Imre Pál Ágh, was a Hungarian national, who was born in 1955 and lived in Kiszombor, Hungary. At the time of introduction of the application, he was being detained and treated in the Asylum for the Criminally Insane ("IMEI") in Budapest. Before the Court he was represented by his mother, Ms I. Ágh, a native of Kövegy, Hungary. The respondent Government are represented by Mr L. Höltzl, Deputy State-Secretary, Ministry of Justice.

The facts of the case, as submitted by the parties, may be summarised as follows.

On 10 April 1996 the applicant attacked Mr L.V. with a knife causing him serious injuries. On 20 May 1996 he was examined by an expert psychiatrist and found to be suffering from *schizophrenia paranoides* and medium-grade debility. He was placed under forced psychiatric treatment as an interim measure.

On 5 September 1996 the Csongrád County Public Prosecutor's Office preferred a bill of indictment charging the applicant with aggravated bodily assault. At the same time it invited the Csongrád County Regional Court to acquit him on account of his mental state and order him to undergo psychiatric treatment in an institution.

Subsequently, the Regional Court acquitted the applicant and ordered him to undergo treatment in a mental institution. On 19 June 1997 the Supreme Court, sitting as a second-instance court, upheld this judgment.

According to section 373 § (2) of the Code of Criminal Procedure, a periodic review of compulsory treatment in a mental institution must be carried out on a yearly basis. In application of this rule, the necessity of the applicant's treatment was reviewed by the Budapest Regional Court on 10 June 1998. The applicant, his defence counsel and his sister who acted as his guardian were present at the hearing. Relying on the opinion of an expert psychiatrist, the court held that the applicant's treatment should be continued. On appeals by all three parties, the Supreme Court upheld this order on 2 July 1998.

The next review was carried out by the Regional Court on 31 March 1999. The applicant's continued treatment was ordered. The applicant, his defence counsel and his guardian were present at the hearing. On their appeals, the Supreme Court upheld this order on 21 April 1999.

On 31 March 2000 the Regional Court held a further review hearing in the presence of the applicant and his defence counsel. The guardian was duly notified but did not attend. At the hearing, the applicant's psychiatric treatment was prolonged. The decision was also served on the guardian. On appeals by the applicant and his defence counsel, the Supreme Court upheld this order on 25 May 2000.

On a motion for review by the Budapest Public Prosecutor's Office, on 20 April 2001 the Budapest Regional Court found, relying on the opinion of an expert psychiatrist, that the continuation of the applicant's treatment was justified.

The Government state that the hearing had taken place in the presence of the applicant and his defence counsel, whereas the applicant submitted that he was absent.

The guardian was duly notified but did not appear; the decision was served on her. On appeals by the applicant and his defence counsel, the Supreme Court upheld the prolongation order on 24 May 2001.

On 27 March 2002 the Budapest Regional Court again found it necessary to continue the applicant's psychiatric treatment. The hearing took place in the presence of the applicant and his defence counsel. The guardian was duly notified but did not attend; the decision was served on her. On appeal by the defence counsel, the order was upheld by the Supreme Court on 8 May 2002.

Following submissions by the applicant's mother dated 14 April 2002, no communication thereafter reached the Registry from the applicant's side. A letter sent by the Registry to the applicant's mother on 2 June 2003 was returned by the Hungarian Post on 30 June 2003 with the notice "*décédé*".

On 17 July 2003 the Government informed the Registry that the applicant had died on 25 May 2002 and that his mother had died on 27 May 2002. They also submitted the deceased's death certificates. No successor has come forward to take the applicant's place.

## COMPLAINTS

Without invoking any particular provisions of the Convention, the applicant complained that his detention had been unlawful in that it had not been reviewed between 19 June 1997 and 20 April 2001. Moreover, he alleged that neither he nor his guardian had been present at the hearing on 20 April 2001 and that this had given rise to an infringement of the principle of "equality of arms" in the proceedings for his release from compulsory psychiatric treatment.

## THE LAW

The Court notes the applicant's demise on 25 May 2002. However, it considers that the applicant's death does not in itself dispose of his complaint. It recalls that close relatives of the deceased applicant are in principle entitled to take his place (*X. v. France,* judgment of 31 March 1992, Series A no. 234-C, p. 89, § 26).

The applicant's complaint related to the lawfulness of his detention in a mental institution. Thus, the subject matter of the case was closely linked to the person of the deceased applicant. However, no successor has come forward to take his place.

In these circumstances, the Court concludes that it is no longer justified to continue the examination of the application within the meaning of Article 37 § 1 (c) of the Convention. Furthermore, the Court finds no reasons of a general character, as defined in Article 37 § 1 *in fine*, which would require the examination of the application by virtue of that Article.

Accordingly, the case should be struck out of the list.

For these reasons, the Court unanimously

*Decides* to strike the application out of its list of cases.

S. DOLLÉ
Registrar

J.-P. COSTA
President