

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

SECOND SECTION

CASE OF CZIGÁNYIK v. HUNGARY

(Application no. 38636/06)

JUDGMENT

STRASBOURG

1 March 2011

This judgment is final but it may be subject to editorial revision.



In the case of Czigányik v. Hungary,

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

Ireneu Cabral Barreto, *President,*
Dragoljub Popović,
András Sajó, *judges,*
and Françoise Elens-Passos, *Deputy Section Registrar,*

Having deliberated in private on 8 February 2011,

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

PROCEDURE

1. The case originated in an application (no. 38636/06) 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 Rezső Czigányik ("the applicant"), on 27 June 2006.

2. The Hungarian Government ("the Government") were represented by Mr L. Höltzl, Agent, Ministry of Public Administration and Justice.

3. On 19 November 2009 the President of the Second Section decided to give notice of the application to the Government. In accordance with Protocol No. 14, the application was allocated to a Committee of three Judges.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1941 and lives in Budapest.

5. On 8 November 1994 a private individual brought an action against the applicant before the Budapest II/III District Court concerning the performance of an agreement on the modification of their respective shares held in a commonly owned real property.

6. After several hearings, on 23 January 1996 the court delivered a partial judgment in which it dismissed the action in its part seeking the annulment of the agreement. On appeal, the Budapest Regional Court quashed the judgment and remitted the case to the first instance court on 13 November 1996.

7. In the resumed proceedings, the District Court delivered a partial judgment on 23 April 1997 in which it again dismissed the plaintiff's action. This decision was upheld by the Budapest Regional Court on 24 June 1998.

8. On 21 February 2003 the District Court delivered a judgment which was partially quashed on 5 February 2004 by the Budapest Regional Court in its part concerning the termination of the co-ownership.

9. On 17 March 2004 the proceedings were suspended by the Budapest Regional Court, pending the registration of a relevant note on the title deed.

10. On 1 April 2009 the change of ownership ratios was registered on the title deed. The proceedings concerning the termination of the co-ownership are pending before the first instance court.

THE LAW

11. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement, laid down in Article 6 § 1 of the Convention. The Government contested this view.

12. The period to be taken into consideration began on 8 November 1994. According to the Government's view, the proceedings were essentially terminated on 1 April 2009 with the registration of the ownership ratios in the title deed. The Court observes, however, that the proceedings for the termination of the co-ownership are still pending before the domestic courts; the Government's view must therefore be rejected. The proceedings have thus already lasted to date over sixteen years and three months for two levels of jurisdiction.

13. 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 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.

14. The applicant also complained under Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention about the outcome of the proceedings. The Court notes, however, that the proceedings are still pending before the domestic courts, rendering this complaint premature. It follows that this part of the application must be rejected, pursuant to Article 35 §§ 1 and 4 of the Convention.

15. Relying on Article 41 of the Convention, the applicant claimed 30,000 euros (EUR) in respect of non-pecuniary damage. The Government contested the claim. The Court considers that the applicant must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards him EUR 17,600 under this head.

16. The applicant also claimed 974,585 Hungarian forints (EUR 3,540) for the costs and expenses incurred before the domestic courts and the Court. The Government did not express an opinion on the matter. Regard being had to the documents in its possession and to its case-law, the Court considers it reasonable to award the applicant, who was not represented by a lawyer, the sum of EUR 500 in respect of all costs incurred.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaints concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;

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, the following amounts, to be converted into Hungarian forints at the rate applicable at the date of settlement:
      (i) EUR 17,600 (seventeen thousand six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 500 (five hundred euros), plus any tax that may be chargeable to the applicant, 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 applicant's claim for just satisfaction.

Done in English, and notified in writing on 1 March 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise Elens-Passos	Ireneu Cabral Barreto
Deputy Registrar	President