

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

SECOND SECTION

CASE OF KÖTELES v. HUNGARY

(Application no. 9271/07)

JUDGMENT

STRASBOURG

15 March 2011

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



In the case of Köteles 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 22 February 2011,

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

PROCEDURE

1. The case originated in an application (no. 9271/07) 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 a Hungarian national, Mr Géza Köteles ("the applicant"), on 20 February 2007.

2. The applicant was represented by Mr J. Sik, a lawyer practising in Budapest. The Hungarian Government ("the Government") were represented by Mr L. Höltzl, Agent, Ministry of Public Administration and Justice.

3. On 8 February 2010 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 1936 and lives in Budapest.

5. On 22 July 1999 the applicant suffered a road accident while driving, due to a burst tyre, and was seriously injured. He subsequently brought an action in compensation against the tire company and its retailer before the Pest Central District Court on 10 February 2000.

6. In its interlocutory judgment of 6 April 2004 the District Court established the respondents' liability for damages, which was finally upheld by the review bench of the Supreme Court on 27 October 2005.

7. After obtaining the opinion of two forensic experts, the Pest Central District Court awarded the applicant compensation on 3 October 2006.

In the absence of an appeal, the judgment became final on 28 November 2006. The judgment was rectified for a clerical error on 9 January 2007.

THE LAW

8. The applicant 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 this view.

9. The period to be taken into consideration began on 10 February 2000 and ended on 9 January 2007. It thus lasted six years and eleven months for three levels of jurisdiction.

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 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.

11. Relying on Article 41 of the Convention, the applicant claimed 10,000 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 and awards him EUR 3,100 under this head.

12. The applicant also claimed EUR 1,500 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 the sum of EUR 1,000 in respect of all costs incurred.

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 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 3,100 (three thousand one hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,000 (one thousand 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 15 March 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise Elens-Passos	Ireneu Cabral Barreto
Deputy Registrar	President