

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

SECOND SECTION

CASE OF LANTOS v. HUNGARY

(Application no. 33807/07)

JUDGMENT

STRASBOURG

1 March 2011

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



In the case of Lantos 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. 33807/07) 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 Iván Lantos ("the applicant"), on 31 July 2007.

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

3. On 9 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 1939 and lives in Budapest.

5. On 20 December 1994 the applicant's mother died in hospital. In April 2000 the applicant brought an action in compensation against the hospital, the head of the hospital, his mother's doctor and finally a nurse, requesting the court to establish a violation of his privacy rights in relation to his mother's treatment in hospital and to order the respondents to surrender all medical documentation related to her treatment.

6. In its interlocutory judgment of 26 February 2002 the Pest Central District Court dismissed the applicant's claim for non-pecuniary damages. This judgment was quashed by the Budapest Regional Court on 21 November 2002.

7. In the course of the resumed proceedings, one of the respondents died on 22 December 2002. The proceedings were thus discontinued in this respect pending the establishment of the heirs.

8. On 19 June 2003 the District Court partly found for the applicant. This judgment was reversed by the Budapest Regional Court, which dismissed his action on 13 January 2004, finding *inter alia* that the applicant was not able to prove that a particular image of computer tomography, deemed to be of crucial importance, was in the possession of the respondent hospital – if it existed at all.

9. The proceedings continued thereafter solely in respect of the doctor who had once been in charge of the applicant's mother. Since this doctor had meanwhile died (see paragraph 7 above), her legal successors entered the case on 3 January 2005. The Pest Central District Court dismissed the applicant's action in this respect on 4 November 2005, which was finally upheld by the review bench of the Supreme Court on 21 February 2007. The courts found *inter alia* that the late doctor or her successors held no personal liability in the circumstances and that, in any event, the respondent hospital (against which the applicant's action had already been dismissed, see paragraph 8 above) could not have possibly been ordered to release the image in question since it had been made and preserved in another institution. The judgment was served on the applicant on 5 April 2007.

THE LAW

10. 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 argument.

11. The period to be taken into consideration began on 17 April 2000 and ended on 5 April 2007. It thus lasted six years and eleven months before three levels of jurisdiction.

12. 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.

13. The applicant also complained under Article 6 § 1 about the outcome of the proceedings. In so far as this complaint may be understood to concern

the assessment of the evidence and the result of the proceedings before the domestic courts, the Court reiterates that, according to Article 19 of the Convention, its duty is to ensure the observance of the engagements undertaken by the Contracting Parties to the Convention. In particular, it is not its function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention. Moreover, while Article 6 of the Convention guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and the national courts (see *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I). In the present case, the Court finds that the applicant's submissions do not disclose any indication that the courts lacked impartiality, or that the proceedings were otherwise unfair. Moreover, the Court is satisfied that the courts' findings concerning the release of the medical files in question, and in particular that of the image of computer tomography, do not indicate any appearance of arbitrariness, especially in view of the fact that the applicant had never sought its release from the hospital where it had actually been taken. It follows that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected, pursuant to Article 35 § 4 of the Convention.

14. Relying on Article 41 of the Convention, the applicant claimed 25,000 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 2,400 under this head.

15. The applicant also claimed EUR 2,652 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.

16. 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 complaint 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 2,400 (two thousand four 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