

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

SECOND SECTION

DECISION

Application no. 11445/10
Gyula EGYED
against Hungary

The European Court of Human Rights (Second Section), sitting on 20 March 2012 as a Committee composed of:

Dragoljub Popović, *President,*

András Sajó,

Paulo Pinto de Albuquerque, *judges,*

and Françoise Elens-Passos, *Deputy Section Registrar,*

Having regard to the above application lodged on 22 February 2010,

Having regard to the declaration submitted by the respondent Government on 29 November 2011 requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Gyula Egyed, is a Hungarian national who was born in 1967 and lives in Székesfehérvár. He was represented before the Court by Mr Cs. Mester, a lawyer practising in Budapest. The Hungarian Government ("the Government") were represented by Mr L. Höltzl, Agent, Ministry of Public Administration and Justice.

On 19 November 2008 the applicant, hitherto unconvicted, was arrested on charges of larceny and other offences. On 21 November 2008 the Székesfehérvár District Court ordered his pre-trial detention for fear of absconding and repetition of crime. His appeal was to no avail.

Subsequently, his detention was prolonged at the statutory intervals. The related decisions were based, with rather stereotypical reasoning devoid of consideration of the applicant's individual circumstances, on the risk of absconding, given the severity of the impending punishment and the fact that the offences reproached to the applicant had been allegedly committed in a criminal organisation with foreign elements. The possibility of less restrictive coercive measures was not examined. The applicant's requests for release were unsuccessful. On 20 January 2010 the applicant's detention was replaced with home arrest, since the investigation had been completed.

The applicant complained under Article 5 of the Convention about the length of his pre-trial detention.

THE LAW

After communication of the applicant's complaint under Article 5 of the Convention to the respondent Government and unsuccessful friendly-settlement negotiations, on 29 November 2011 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The declaration provided as follows:

> "The Government note that the efforts with a view to securing a friendly settlement of the case have been unsuccessful. In this situation the Government hereby wish to express by way of unilateral declaration its acknowledgement of the unreasonable length of the domestic proceedings in which the applicant was involved. Consequently, the Government are prepared to pay to Mr Gyula Egyed 2,000 (two thousand) euros. This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses (inclusive of value-added taxes paid on lawyer's fees), will be converted into the national currency at the rate applicable on the date of payment, and will be free of any further taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case. The Government therefore invite the Court to strike the present case out of the list of cases. They suggest that the present declaration might be accepted by the Court as „any other reason" justifying the striking out of the case of the Court's list of cases, as referred to in Article 37 § 1 (c) of the Convention."

In a letter of 9 January 2012 the applicant expressed the view that the sum mentioned in the Government's declaration – which was, in his view, not specific enough about the alleged violation of his rights under Article 5 – was unacceptably low.

The Court recalls that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular to strike a case out of its list if:

> "for any other reason established by the Court, it is no longer justified to continue the examination of the application".

It also recalls that in certain circumstances, it may strike out an application under Article 37 § 1(c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

To this end, the Court will examine carefully the declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey*, [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI); *WAZA Spółka z o.o. v. Poland* (dec.) no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.) no. 28953/03).

The Court has established in a number of cases, including those brought against Hungary, its practice concerning complaints about the violation of one's right to trial within a reasonable time, for the purposes of Article 5 of the Convention (see, for example, *Szepesi v. Hungary*, no. 7983/06, 21 December 2010).

Having regard to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1(c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine*).

For these reasons, the Court unanimously

Takes note of the terms of the respondent Government's declaration and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Françoise Elens-Passos Deputy Registrar	Dragoljub Popović President