CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

DECISION

Application no. 70553/01
by Gyuláné ERDEI
against Hungary

The European Court of Human Rights (Second Section), sitting on 10 May 2005 as a Chamber composed of:

Mr J.-P. COSTA, *President*,
Mr A.B. BAKA,
Mr I. CABRAL BARRETO,
Mr R. TÜRMEN,
Mr V. BUTKEVYCH,
Ms D. JOČIENĖ,
Mr D. POPOVIĆ, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the above application lodged on 17 February 2001;

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together;

Having regard to the parties' formal declarations accepting a friendly settlement of the case;

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Gyuláné Erdei, is a Hungarian national who was born in 1944 and lives in Debrecen. She was represented before the Court by Mr I. Barbalics, a lawyer practising in Nagyatád, Hungary.

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

In the late 1980s the applicant, employed by a State-owned Hungarian company, was working in Tengiz at a mineral oil and gas mining construction site in Kazakhstan (former USSR).

On account of various obscure illnesses which occurred after her return to Hungary, the applicant was forced to take premature retirement and received a disability pension.

On 31 March 1995 the applicant instituted proceedings before the Budapest Labour Court. She claimed that her diseases had been caused by the hazardous working environment in Tengiz and that her former employer should pay compensation.

A first hearing scheduled for 29 April 1996 was postponed to early 1997. Subsequently, the court ordered the applicant's action to be joined to the case of two other plaintiffs (“first and second plaintiffs”).

On 10 June 1997 the Labour Court heard the applicant. The court ordered that a geological and oil expert be appointed.

At a hearing on 9 September 1997 five witnesses, including four experts, were heard. On 30 September 1998 a toxicology expert was heard.

On 16 November 1998 the State was ordered by the court to join the proceedings as a second defendant.

At a hearing on 18 January 1999, at which five witnesses did not appear, the Labour Court appointed several institutions and a medical expert to examine the first plaintiff.

At a hearing on 3 March 1999, the judge in charge of the case issued an order urging the appointed expert institutions to submit their opinions on the applicant's submissions.

At a hearing on 28 April 1999, two witnesses were not present and three others were heard. On 14 December 1999 a medical expert opinion concerning the second plaintiff was presented.

On 18 and 21 January 2000 the applicant and the other plaintiffs made their final submissions to the Labour Court.

On 21 February 2000 the Labour Court delivered its judgment in which it established the Hungarian State's liability in the case. Insofar as the applicant's claim had been directed against her former employer, the Labour Court discontinued the proceedings.

The judgment was rectified and supplemented on 6 May 2000. In June 2000 the applicant, the other plaintiffs and the Hungarian State appealed.

On 22 September 2000 the Budapest Regional Court held a hearing and appointed the Forensic Committee of the Scientific Health Council to review the previous medical opinions.

The first and second plaintiffs were examined by the Scientific Health Council on 13 December 2000 and its review of the various opinions was submitted on 19 March 2001.

In a judgment delivered on 11 May 2001, the Regional Court quashed the first instance decision and discontinued the proceedings with regard to the

Hungarian State. The court quashed the remainder of the first-instance judgment insofar as it concerned the applicant and, in this respect, dismissed her claims as time-barred.

On 28 February 2002 the Supreme Court dismissed the applicant's petition for review. The decision was served on the applicant in March 2002.

COMPLAINTS

The applicant originally complained under Article 6 § 1 of the Convention about the length and the outcome of the proceedings.

THE LAW

On 23 August 2004 the Court received the following declaration from the Government:

> "I declare that the Government of Hungary offer to pay EUR 8,000 (eight thousand euros) to Mrs Gyuláné Erdei, with a view to securing a resolution of the application registered under no. 70553/01. This sum shall cover any pecuniary and non-pecuniary damage as well as costs and expenses, and will be payable within three months from the date of notification of the decision by the Court pursuant to Article 37 § 1 (b) of the European Convention on Human Rights.
>
> This sum shall be paid to a bank account named by the applicant, free of any taxes and charges that may be applicable.
>
> Simple interest at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points shall be payable from the expiry of the above-mentioned three months until settlement.
>
> The payment will constitute the final resolution of the case."

On 19 November 2004 the Court received the following declaration signed by the applicant:

> "I note that the Government of Hungary are prepared to pay me the sum of EUR 8,000 (eight thousand euros) covering pecuniary and non-pecuniary damage as well as costs and expenses, plus interest if payment is delayed, with a view to securing a resolution of application no. 70553/01 pending before the Court.
>
> I accept the proposal and waive any further claims against Hungary in respect of the facts of this application. I declare that this payment constitutes a final resolution of the case."

The Court takes note of the agreement reached between the parties and considers that the matter has been resolved (Article 37 § 1 (b) of the

Convention). Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the further examination of the application. Accordingly, the application to the case of Article 29 § 3 of the Convention should be discontinued, and the case 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