CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

DECISION

Application no. 37934/02
by Pál KALMÁR
against Hungary

The European Court of Human Rights (Second Section), sitting on 5 October 2004 as a Chamber composed of:

Mr L. LOUCAIDES, *President*,
Mr A.B. BAKA,
Mr G. BONELLO,
Mr K. JUNGWIERT,
Mrs W. THOMASSEN,
Mr M. UGREKHELIDZE
Mrs A. MULARONI, *judges*,
and Mrs S. Dollé, *Section Registrar*,

Having regard to the above application lodged on 2 April 2002,

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, Mr Pál Kalmár, is a Hungarian national who was born in 1948 and lives in Budapest.

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

In the context of an aborted sales transaction, in 1996 the applicant brought an action against B. Kft, a limited liability company, claiming the

reimbursement of 662,000 Hungarian forints (HUF) which he had paid for a car. On 29 July 1996 the Buda Central District Court transferred the case-file to the competent Buda Surroundings District Court. On 13 January 1997 the applicant extended his action to the Consumer Protection Authority and the A. Kft company. On 17 May and 15 October 1997 the District Court held hearings. On 7 September 1999 the District Court appointed a judicial engineering expert. The expert submitted his opinion on 27 July 2000.

On 7 March and 23 November 2000 the President of the District Court dismissed the applicant's requests for priority to be given to the case.

On 6 February 2002 the District Court held another hearing. At the hearing the applicant did not appear due to health reasons. At a further hearing on 13 February 2002 the applicant and two of the defendants failed to appear.

On 14 March and 18 June 2002 the President of the District Court dismissed the applicant's repeated requests for priority to be given to the case.

On 10 April 2002 the District Court held a hearing. Subsequently, another judge took over the case.

On 4 July 2002 the District Court held a hearing and discontinued the proceedings with respect to the second defendant. On 18 July 2002 the applicant appealed against this decision. On 1 October 2002 the Pest County Regional Court dismissed his appeal.

On 24 October 2002 the District Court delivered its judgment. It ordered A. Kft to pay HUF 661 350 to the applicant and dismissed the remainder of his claims. On 10 April 2003 the Pest County Regional Court dismissed the applicant's appeal.

COMPLAINT

The applicant complains under Article 6 § 1 of the Convention of the length of the civil proceedings.

THE LAW

On 31 August 2004 the Court received the following declaration from the Government:

> "I declare that the Government of Hungary offer to pay EUR 5,000 (five thousand euros) to Mr Pál Kalmár, with a view to securing a resolution of the application registered under no. 37934/02. 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 3 September 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 5,000 (five 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. 37934/02 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

L. LOUCAIDES
President