CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 22661/02
by Mrs Gáborné KOVÁCS
against Hungary

The European Court of Human Rights (Second Section), sitting on 24 January 2006 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 8 May 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 observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mrs Gáborné Kovács, 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 February 1993 criminal investigations were instituted against the applicant on charges of embezzlement and forgery of documents. After the police had repeatedly interrogated her and heard numerous witnesses on several occasions, on 20 January 1994 the investigation was closed.

On 28 June 1994 the Budapest I/XII District Public Prosecutor's Office ordered the resumption of the investigation. Subsequently, an expert accountant was appointed. On 13 June 1995 the investigation was closed.

On 22 November 1995 the Prosecutor's Office preferred a bill of indictment against the applicant, charging her with aggravated mismanagement.

The Buda Central District Court held hearings on 4 and 6 December 1996, 20 February, 30 April, 24 June 14 September and 18 December 1997. At the hearing on 4 March 1998, the District Court ordered that further investigations be carried out. After further expert opinions had been obtained, the resumed investigations were closed on 22 March 1999.

Further hearings took place on 14 October 1999, 27 January and 2 March 2000. On that date the court found the applicant guilty as charged, and sentenced her to one year and ten months' imprisonment, its execution being suspended for four years.

On appeal, the Budapest Regional Court held hearings on 26 April, 21 June and 4 September 2001. On the latter date it delivered a judgment and reduced the applicant's sentence to one year's imprisonment, its execution being suspended for only two years. Moreover, the applicant was granted preliminary exemption (*előzetes mentesítés*) from the unfavourable legal consequences of her conviction. In its decision, the Regional Court explained the mitigation of the sentence as follows:

> "When imposing the sentence [and considering those factors which are in the applicant's favour], special importance must be attributed to the fact that almost nine years have elapsed since the offence was committed and that [the applicant] has not contributed to this extraordinary delay. ...
>
> On account of the extraordinary protraction [of the proceedings], the second-instance court has likewise reduced to an important extent the duration of the probationary period.
>
> Considering the ... circumstances of the applicant's having committed the offence, the second-instance court is of the view that [the applicant] who has been subjected to criminal proceedings for almost nine years is worthy of preliminary exemption (*előzetes mentesítés*) ... ."

COMPLAINT

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

THE LAW

The applicant complains that the proceedings lasted an unreasonably long time, in breach of Article 6 § 1 of the Convention, which reads as relevant:

> "In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

The Government argue that the applicant cannot claim to be a victim of a violation of her Convention rights, since the Regional Court expressly acknowledged that the proceedings had been unusually long and provided redress by substantially reducing the applicant's sentence and probationary period and by granting preliminary exemption, all three measures effected for this particular reason. In any event, the authorities displayed the requisite diligence in handling the case.

The applicant contests these views.

The Court observes that the Regional Court held that the duration of the proceedings had been excessive and reduced the applicant's sentence from one year and ten months' to one year's imprisonment, as well as her probationary period from four years to two years. Moreover, the applicant was preliminarily exempted from the unfavourable legal consequences of the conviction. The Regional Court emphasised that the mitigation of the sentence and the preliminary exemption were due to the unreasonable length of the proceedings. Against this background, the Court finds that the applicant obtained adequate redress for the alleged violation of her right under Article 6 § 1 of the Convention to the determination within a reasonable time of the criminal charges against her. Accordingly, she can no longer claim to be a victim, for the purposes of Article 34, of a violation of Article 6 § 1. The application is therefore manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4 of the Convention (see *Morby v. Luxembourg* (dec.), no. 27156/02, ECHR 2003-XI; *Lie and Bernsten* (dec.), no. 25130/94; *Tamás Kovács v. Hungary*, no. 67660/01, § 26, 28 September 2004). Consequently, it is appropriate to discontinue the application of Article 29 § 3 of the Convention to the present case.

For these reasons, the Court unanimously

Declares the application inadmissible.

S. DOLLÉ
Registrar

J.-P. COSTA
President