CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

FINAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 58893/00
by Lajos MAGYAR
against Hungary

The European Court of Human Rights (Second Section), sitting on 4 May 2004 as a Chamber composed of:

Mr J.-P. COSTA, *President*,
Mr A.B. BAKA,
Mr L. LOUCAIDES,
Mr C. BÎRSAN,
Mr K. JUNGWIERT,
Mr M. UGREKHELIDZE,
Mrs A. MULARONI, *judges*,

and Mr T.L. EARLY, *Deputy Section Registrar*,

Having regard to the above application lodged with the European Commission of Human Rights on 12 November 1996,

Having regard to the partial decision of 4 March 2003,

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

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Lajos Magyar, is a Hungarian national who was born in 1937 and lives in Budapest.

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

On 15 April 1996 the Budapest District Land Registry dismissed, on the ground that supporting documents were missing, the applicant's request that his joint ownership of a real property be entered in the Land Register.

On 17 May 1996 the applicant filed an administrative appeal. On 24 June 1996 the Budapest Metropolitan Land Registry dismissed the appeal.

On 12 August 1996 the applicant brought an action to challenge the administrative decisions.

On 14 January 1997 the Pest Central District held a hearing.

A hearing scheduled for 18 April 1997 was adjourned as the applicant failed to appear. On 2 September 1997 the court held a hearing and suspended the proceedings pending the outcome of a connected ownership dispute.

On appeal, the Budapest Regional Court ordered the resumption of the proceedings. In the resumed proceedings, on 16 June 1998 the District Court appointed a legal aid lawyer to represent the applicant in the case. At the hearing on 30 October 1998 the legal aid lawyer informed the court that the applicant had refused to provide her with documents in his possession. On 21 December 1998 the applicant's representative requested that she be relieved of her duties, having regard to her client's lack of co-operation.

On 8 January 1999 the District Court held a hearing and, as a result of a change in the law, transferred the case to the Budapest Regional Court for reasons of competence. The Regional Court held hearings on 10 March and 16 April 1999. On the latter occasion, the Regional Court quashed the administrative decisions and remitted the case to the Land Registry.

On the Land Registry's appeal, on 10 May 2001 the Supreme Court, acting as the second-instance court, quashed the Regional Court's decision and dismissed the applicant's action. The court held that the administrative proceedings had complied with the law. The court's judgment was served on the applicant on 22 June 2001.

On 29 January 2002 the Supreme Court rejected the applicant's petition for review as it had been introduced outside the statutory time-limit.

COMPLAINTS

The applicant complains about the length and the outcome of the proceedings. He invokes Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention.

THE LAW

1. The applicant complains that the administrative litigation lasted an unreasonably long time, in breach of Article 6 § 1 of the Convention which, in its relevant part, provides:

> "In the determination of his civil rights and obligations ... , everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

The Government claim that the applicant contributed to the protraction of the proceedings, in particular by failing to co-operate with the legal-aid lawyer appointed for him and to appear at the hearing on 18 April 1997.

The applicant contests these views.

The Court observes that the period to be considered began, at the latest, on 17 May 1996 when the applicant appealed against the first-instance administrative decision (see, *mutatis mutandis, G.S. v. Austria*, no. 26297/95, § 32, 21 December 1999) and ended on 29 January 2002 with the Supreme Court's review decision. The proceedings therefore lasted five years, eight months and fourteen days, a period involving one administrative and three court instances.

The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the criteria established by its case-law, particularly the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

It has not been asserted that the case was particulary complex and the Court sees no reason to hold otherwise.

As to the conduct of the applicant, the Court observes, in line with the Government's observations, that he failed to appear at the hearing on 18 April 1997. As a result, the hearing had to be rescheduled for 2 September 1997, which caused a delay of four and a half months. Moreover, the applicant failed to provide his representative with necessary documents, thus impeding progress in the case for a further two months. It is also to be noted that the applicant contributed to the protraction of the proceedings by filing a futile petition for review. This petition was doomed to failure since it was filed outside the statutory time-limit. The consequential delay of some seven months is attributable to the applicant.

Responsibility for a delay of, altogether, more than thirteen months must therefore be ascribed to the applicant.

As regards the remaining period of four years and seven months, the Court observes that it took the Supreme Court two years to decide on the Land Registry's appeal. However, taking into account the considerable delay attributable to the applicant and the fact that the case was examined by four

levels of jurisdiction, it is satisfied that the overall length of the proceedings is not substantial enough to be considered excessive (*Sergi v. Italy*, no. 46998/99, decision of 26 September 2000). 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.

2. The applicant also complains about the outcome of the proceedings and the impact of the courts' decision on his property rights. The Court observes that the applicant filed his petition for review with the Supreme Court outside the statutory time-limit and that the petition was, in consequence, rejected without examination.

It follows that the domestic remedies have not been properly exhausted in respect of this part of the application, as required by Article 35 § 1. The complaints must therefore be rejected pursuant to Article 35 § 4 of the Convention. Accordingly, the application to the case of Article 29 § 3 of the Convention should be discontinued.

For these reasons, the Court unanimously

Declares the remainder of the application inadmissible.

T.L. EARLY
Deputy Registrar

J.-P. COSTA
President