

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

SECOND SECTION

DECISION

Application no. 12967/06
Attila MÉSZÁROS
against Hungary

The European Court of Human Rights (Second Section), sitting on 26 March 2013 as a Committee composed of:

Peer Lorenzen, *President,*

András Sajó,

Nebojša Vučinić, *judges,*

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

Having regard to the above application lodged on 30 March 2006,

Having regard to the declaration submitted by the respondent Government on 10 February 2010 requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Attila Mészáros, is a Hungarian national, who was born in 1974 and lives in Tököl.

The Hungarian Government ("the Government") were represented by Mr Z. Tallódi, Agent, Ministry of Public Administration and Justice.

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

On 24 June 1999 criminal proceedings were instituted against the applicant. On 9 November 2004 he was convicted of fraud and other offences. On 27 May 2005 the Budapest Regional Court changed the characterisation of his offences and increased the sentence to three and a

half years' imprisonment. On 26 January 2006 the Supreme Court rejected his petition for review. The courts relied on testimonies given by several witnesses and on documentary evidence.

The applicant complained under Article 6 § 1 of the Convention about the protraction and unfairness of the proceedings.

The part of the application concerning the length of the proceedings was communicated to the Government.

THE LAW

The applicant complained under Article 6 of the Convention that the proceedings lasted an unreasonably long time and were not fair.

After the failure of attempts to reach a friendly settlement, by a letter of 10 February 2010 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by this part of 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 were involved.
>
> Consequently, the Government are prepared to pay 1,200 (one thousand two hundred) euros to the applicant (Mr Attila Mészáros).
>
> 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 lawyers' 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."

The applicant was notified of this declaration but did not submit any reply to it.

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 a hearing within a reasonable time (see, for example, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII; *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 69-98, ECHR 2006; *Majewski v. Poland*, no. 52690/99, 11 October 2005; and *Wende and Kukówka v. Poland*, no. 56026/00, 10 May 2007).

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*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application could be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

Relying on Article 6 § 1 the applicant also complained about the alleged unfairness of the proceedings.

Having regard to all the evidence in its possession, and in so far as it has jurisdiction to examine this allegation, the Court has not found any appearance of a breach of the rights and freedoms guaranteed by the Convention or its Protocols.

It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court unanimously

Takes note of the terms of the respondent Government's declaration under Article 6 § 1 of the Convention (length of proceedings) and of the modalities for ensuring compliance with the undertakings referred to therein;

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

Declares the remainder of the application inadmissible.

Françoise Elens-Passos
Deputy Registrar

Peer Lorenzen
President