

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

FOURTH SECTION

DECISION

Application no. 32211/11
Sándor MOLNÁR
against Hungary

The European Court of Human Rights (Fourth Section), sitting on 5 September 2017 as a Committee composed of:

Faris Vehabović, *President,*
Carlo Ranzoni,
Péter Paczolay, *judges,*

and Andrea Tamietti, *Deputy Section Registrar,*

Having regard to the above application lodged on 16 May 2011,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Sándor Molnár, is a Hungarian national, who was born and lives in Budapest.

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

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

4. On 28 January 2008 the applicant brought an action against his previous employer, the Ministry of Healthcare. He claimed the establishment of wrongful termination of his employment. As his claim did not comply with all the necessary requirements, on 6 March 2008 the court instructed the applicant to submit a complete statement of claim, which he filed with the court on 21 March 2008.

5. On 10 and 20 March 2008 the applicant requested expedited hearings in his case due to his serious diabetes and to the fact that his claim

concerned the reinstatement in his post. He repeated his request on 2 and 16 April.

6. The applicant was summoned to appear at the first hearing, scheduled for 8 July 2008.

7. On 27 April 2008 the applicant submitted a motion to exclude the presiding judge of the panel, because, in his opinion, she gravely breached her judicial oath by setting the first hearing in July and by ignoring his previous motions for an expedited trial. On 23 May 2008 the president of another panel of the Budapest Labour Court dismissed the motion because, due to the workload of the labour court, the hearing could not have been scheduled earlier than July, even in an expedited trial.

8. At the hearing of 8 July 2008 the applicant again submitted a motion of bias, this time against the Budapest Labor Court. On 9 January 2009 the Budapest Court of Appeal dismissed the applicant's request to have the Budapest Labor Court excluded from the case.

9. On 17 November 2009 the Budapest Labour Court partly found for the applicant. On 14 December 2009 the defendant appealed against the judgment. The applicant submitted a counter-appeal.

10. On 25 May 2010 the Budapest High Court, acting as second-instance court, held a closed session in order to decide on the inadmissibility of the applicant's counter-appeal. On 13 July 2010 it decided, at another closed session, to suspend the proceedings due to succession on the defendant's part because the functions of the defendant had been taken over by the newly established Ministry of Human Capacities. On appeal, on 14 December 2010, the Budapest Court of Appeal quashed that latter decision holding that there had been no succession, but only a change of name. Thus it ordered the Budapest High Court to resume the case.

11. The Budapest High Court, without holding a hearing, upheld the judgment on 31 May 2011. The final judgment was served on the applicant on 31 August 2011.

COMPLAINT

12. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement of Article 6 § 1 of the Convention.

THE LAW

13. According to the applicant, the length of the proceedings was excessive and thus violated Article 6 § 1 of the Convention.

In so far as relevant, this provision reads as follows:

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

14. The Government argued that the applicant himself had contributed to the protraction of the proceedings. He had not initially submitted a complete claim, a precondition for setting the date for the first hearing. Further, he had submitted wholly unsubstantiated motions for exclusion on two occasions. Notwithstanding these events, the proceedings had lasted only three years and four months before two court instances, which could not be considered an unreasonably long period.

15. 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 following criteria: the complexity of the case, the conduct of the applicant and 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).

16. The period to be taken into consideration began on 28 January 2008, when the applicant brought his civil action against his employer (see paragraph 4 above), and ended on 31 August 2011 (see paragraph 11 above), when the second-instance court's decision was served on the applicant. The proceedings thus lasted three years and seven months for two levels of jurisdiction. The Court is of the opinion that this period is not sufficiently lengthy to justify a finding that there has been a violation of the reasonable time requirement enshrined in Article 6 § 1 of the Convention, even taking into account what was at stake for the applicant.

17. The Court further notes that the applicant submitted a complete statement of claim only on 21 March 2008, two months after lodging an incomplete one (see paragraph 4 above). He subsequently submitted a motion to exclude the presiding judge of the panel and another one to exclude the competent court (see paragraphs 7 and 8 above). Both motions were declared unfounded. The Court reiterates that applicants cannot be blamed for taking full advantage of the resources and tools afforded by national law in the defence of their interests (see *Kolomiyets v. Russia*, no. 76835/01, § 29, 22 February 2007). Nonetheless, the applicant's conduct, in itself legitimate, constitutes an objective fact which cannot be attributed to the respondent State, and which must be taken into account for the purpose of determining whether or not the reasonable time referred to in Article 6 § 1 has been exceeded (see *Eckle v. Germany*, 15 July 1982, § 82, Series A no. 51, and *Sociedade de Construções Martins & Vieira, Lda. and Others v. Portugal*, nos. 56637/10 and 4 others, § 48, 30 October 2014). In the Court's view, in the present case the applicant did contribute to the prolongation of the case. Further, having regard to the appeal proceedings, where the Budapest High Court held two closed sessions and the Budapest

Court of Appeal was called upon to examine some procedural aspects of the case (see paragraph 10 above), the Court concludes that there has not been significant inactivity imputable to the courts.

18. Under these circumstances, the Court cannot decipher any appearance of violation of Article 6 § 1 of the Convention. It follows that the application must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 28 September 2017.

Andrea Tamietti Deputy Registrar	Faris Vehabović President