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

FOURTH SECTION

DECISION

Application no. 16049/11
Tiborné TINTA
against Hungary

The European Court of Human Rights (Fourth Section), sitting on 28 November 2017 as a Committee composed of:

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

and Andrea Tamietti, *Deputy Section Registrar,*

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

1. The applicant, Ms Tiborné Tinta, is a Hungarian national, who was born in 1951 and lives in Szirmabesenyő.

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

The circumstances of the case

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

4. From 1998 onwards the applicant was being prosecuted on charges of fraud (punishable 2 to 8 years of imprisonment). After a remittal, she was acquitted in 2008.

5. On 26 November 2009 the Budapest Court of Appeal reversed this judgment and convicted the applicant of fraud. She was sentenced to a fine of 180,000 Hungarian forints (approximately 600 euros). The Court of

Appeal noted the protraction of the case and took it into account as a serious mitigating factor when imposing a very lenient sentence.

6. On appeal, on 16 September 2010 the Supreme Court changed the characterisation of the offence to aggravated embezzlement but otherwise held the sentence.

7. Between 1998 and 2003 the applicant's passport was being withdrawn.

COMPLAINTS

8. The applicant complained under Article 6 §§ 1 and 3 of the Convention about the length and the unfairness of the procedure. She also invoked Article 2 of Protocol No. 4 in connection with the withdrawal of her passport.

THE LAW

9. The applicant complained that the case lasted an unreasonably long time in breach of Article 6 § 1.

Article 6 provides as relevant:

> "1. In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing within a reasonable time ...
>
> ...
>
> 3. Everyone charged with a criminal offence has the following minimum rights:
>
> ...
>
> (b) to have adequate time and facilities for the preparation of his defence;
>
> ..."

10. The Government submitted that the applicant was no longer a victim of the alleged violation since the courts had provided redress for the grievance. The applicant disagreed.

11. The Court notes that the Court of Appeal acknowledged the undue length of the proceedings and provided redress by taking this element into account as an important mitigating factor and by imposing a lenient sentence (see paragraph 5 above). Consequently, the applicant is no longer a victim of the alleged violation, for the purposes of Article 34 of the Convention (see, *a contrario*, *Jensen v. Denmark* (dec.), no. 48470/99, 20 September 2001).

12. It follows that this part of the application is incompatible *ratione personae* with the provisions of the Convention within the meaning of

Article 35 § 3 (a) and must be rejected, pursuant to Article 35 § 4 of the Convention.

13. The applicant also complains under Article 6 §§ 1 and 3 (b) about the outcome and the unfairness of the procedure.

14. The Court is satisfied that there is no indication that the courts lacked impartiality, that the applicant's defence rights were curtailed in any manner or that the proceedings were otherwise unfair. This part of the application is therefore manifestly ill-founded within the meaning of Article 35 § 3 (a) and must be rejected, pursuant to Article 35 § 4 of the Convention.

15. Lastly, the withdrawal of the applicant's passport had lasted until 2003, whereas she introduced the application only in 2011, that is, outside the six-month time-limit laid down in Article 35 § 1 of the Convention. It follows that this part of the application must be rejected in application of Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 21 December 2017.

Andrea Tamietti
Deputy Registrar

Faris Vehabović
President