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Meeting: 1492nd meeting (March 2024) (DH)

Item reference: Revised Action Report (13/02/2024)

Communication from Hungary concerning the case of KENEDI v. Hungary (Application No. 31475/05)

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Réunion : 1492^e réunion (mars 2024) (DH)

Référence du point : Bilan d'action mis à jour (13/02/2024)

Communication de la Hongrie concernant l'affaire KENEDI c. Hongrie (requête n° 31475/05) (**anglais uniquement**)

Revised Action Report of 13 February 2024
in the case of Kenedi v. Hungary
(Appl. No. 31475/05, judgement of 26/05/2009, final on 26/08/2009)



Introductory case summary

The case concerns – as found by the Court - the Hungarian authorities' reluctance to enforce a court order granting the applicant, a historian, unrestricted access to documents which he requested in order to write a study on the Hungarian State Security Service in the 1960s. The European Court found violations as regards the excessive length of the enforcement proceedings in respect of the judgment authorising the applicant's access to the documents (Article 6 § 1), as regards the applicant's right to freedom of expression on account of the continued resistance of the authorities to grant the applicant access to the abovementioned documents (Article 10) and regarding the lack of an effective remedy in this respect (Article 13 in conjunction with Article 10).

I. Individual measures

a) Just Satisfaction

The just satisfaction awarded to the applicant (EUR 6,000 in respect of non-pecuniary damage and EUR 7,000 for costs and expenses, converted to HUF 3,509,480) was paid in due time, on 13 October 2009. The applicant did not claim pecuniary damages.

b) Further individual measures

On 14 September 2009, the applicant received the requested documents from the responsible authorities. No further individual measures are necessary in the execution process.

II. General measures

a) As regards the violation of Article 6 § 1

According to the Court's well-established case law, "the execution of a judgment is an integral part of the proceedings" and shall also be taken into consideration for the calculation

of their length.¹ Addressing the question of excessively lengthy enforcement proceedings is therefore part of the general measures required in response to the – as found by the Court - structural problem of excessive length of civil proceedings, which is currently being examined by the Committee of Ministers within the framework of the *Gazsó* group of cases under the enhanced supervision procedure.²

The authorities therefore note that the general measures required in response to the violation of Article 6 § 1 found in the present case are being addressed within the framework of the *Gazsó* group of cases.

At the same time the procedures relating to the execution of the judgments of the domestic courts have been accelerated.

The further examination of *the aspects of Article 6 § 1* in the context of the present case is not required.

b) As regards the violations of Article 10 and Article 13 in conjunction with Article 10

It is to be noted that the European Court rendered judgments in two slightly similar cases against Hungary, namely the case of *Társaság a Szabadságjogokért v. Hungary* (37374/05, closed on 4 December 2012, see [CM/ResDH\(2012\)191](#)) and the case of *Magyar Helsinki Bizottság v. Hungary* (18030/11, execution still pending). Both cases concern the right of access to information and the Court found a violation of Article 10 in both cases.

However, the present case can be distinguished from the abovementioned two cases for the following reasons. In the abovementioned two cases the applicants were civil society organisations acting in their “public watchdog” role and their requests to access certain data was eventually dismissed by the domestic courts. Therefore, general measures required in the pending case (*Magyar Helsinki Bizottság*) concern the domestic courts’ case-law.

In contrast, the present case concerns the Ministry’s refusal to give access to the requisite documents, despite the domestic courts’ explicit finding that such obligation existed. There have been no other cases communicated by the Court against Hungary in respect of this problem. The case appears to constitute an isolated incident.

¹ See, *Bognár v. Hungary* (No. [75757/14](#), judgment of 20 October 2020, § 25).

² See for example *Ágnes Kovács v. Hungary* (No. [12089/07](#), judgment of 24 September 2013, § 13), a case linked to the *Tímár/Gazsó v. Hungary* group of cases.

Considering the importance of transparency of public authorities in a democratic society the Government of Hungary are engaged to the right to access to official documents. Therefore Hungary ratified the Council of Europe Convention on Access to Official Document.

c) Publication and dissemination

The ECtHR's judgment was translated and published on the website of the Ministry of Justice. The judgment is on the website of the Government (<https://igazsagugyiinformaciok.kormany.hu/az-emberi-jogok-europai-birosaganak-iteletei>). The National Judicial Council was directly informed about the case.

III. Conclusions of the respondent state

The Government consider that the measures adopted have fully remedied the consequences for the applicant of the violation of the Convention found by the Court in this case, and that Hungary has thus complied with its obligations under Article 46, Paragraph 1 of the Convention.

Budapest, 13 February 2024



Zoltán Tallódi

Agent of the Government of Hungary