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Meeting: 1514th meeting (December 2024) (DH)

Item reference: Action Plan (30/09/2024)

Communication from Hungary concerning the Shaw v. Hungary (Application No. 6457/09) group of cases and Tonello v. Hungary (Application No. 46524/14)

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Réunion : 1514^e réunion (décembre 2024) (DH)

Référence du point : Plan d'action (30/09/2024)

Communication de la Hongrie concernant le groupe d'affaires Shaw c. Hongrie (requête n° 6457/09) et Tonello c. Hongrie (requête n° 46524/14) (*anglais uniquement*)

**Action Plan of 30 September 2024
in the Shaw v. Hungary group of cases (6457/09)**

DGI
30 SEP. 2024
SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

List of applications concerned

Shaw v. Hungary (Appl. No. 6457/09, judgement of 26/07/2011, final on 26/10/2011)

Tóth v. Hungary (Appl. No. 51323/14, judgement of 30/01/2018, final on 30/04/2018)

Tonello v. Hungary (Appl. No. 46524/14, judgement of 24/04/2018, final on 24/04/2018)

Vassallo v. Hungary (Appl. No. 32662/20, judgement of 26/10/2023, final on 26/10/2023)

Introductory case summary

1. The Shaw group concerns violations of the applicants' right to respect for their family life on account of the authorities' failure to effectively address the issues arising from the wrongful removal of their children, between 2004 and 2014, by their former spouses (Article 8). The European Court identified several shortcomings in the conduct of return proceedings under the Hague Convention on the Civil Aspects of International Child Abduction and/or the EU Regulation on Recognition and Enforcement of Judgments in Matrimonial Matters and Matters of Parental Responsibility (*Shaw, Vassallo*) as well as in the enforcement of the domestic courts' judgments on custody (*Edina Tóth*).
2. In *Tonello* the Court found a violation on account of the authorities' failure to enforce final decisions of the Hungarian and Italian courts ordering the return of the applicant's daughter who was born in 2011 and wrongfully removed by her mother, K.S., from Italy to Hungary in 2012 (Article 8). The European Court found that the Hungarian authorities had failed to take the necessary measures to locate the applicant's child in a timely manner (§ 75) and to take effective coercive measures against K.S. with a view to enforcing the return orders without undue delay (§§ 73, 76-77, 80). This resulted in a situation where the applicant had been unable to see her his child more than six years at that point in time (§§ 77-78). The Court further held that the authorities "rejected, on rather formalistic grounds, three applications for judicial assistance coming from their Italian counterparts", whereas "stronger efforts to ensure an effective cooperation would have been welcomed in a situation (...) where return orders were issued by the authorities of both countries" (§ 79).

I. Individual measures

a) Just satisfaction

3. In *Shaw* just satisfaction awarded to the applicant in respect of non-pecuniary damage EUR 20,000, and in respect of costs and expenses EUR 12,000, converted to HUF 9,768,960 (1 € = 305,28 HUF) and paid in due time, on 14 December 2011.

4. In *Tóth* the just satisfaction awarded to the applicant in respect of non-pecuniary damage EUR 12,500, and in respect of costs and expenses EUR 3,800, converted to HUF 5,238,286 (1 € = 321,31 HUF; the amount of HUF 933 default interest was included in the total sum) and paid on 1 August 2018.
5. In *Tonello* the just satisfaction awarded to the applicant in respect of pecuniary damage EUR 8,000, non-pecuniary damage EUR 20,000, and in respect of costs and expenses EUR 25,000, converted to HUF 17,138,080 (1 € = 323,36 HUF) and paid on 30 July 2018.
6. In *Vassallo*, the just satisfaction awarded to the applicant in respect of pecuniary damage EUR 4,000, non-pecuniary damage EUR 9,000, and in respect of costs and expenses EUR 4,000, converted to HUF 6,521,710 (1 € = 383,63 HUF) and paid in due time, on 22 December 2023.

b) Further individual measures

7. In cases of *Shaw* and *Tóth*, the applicants' child reached the age of majority, therefore no further individual measures appear necessary.
8. In *Vassallo*, on 26 July 2020, during a parental visit, the applicant took the children to Spain where they have remained with him since. On 24 November 2020 the Budapest High Court terminated the applicant's return procedure in Hungary in view of this *de facto* reunification, after being informed of it by the Spanish authorities (§§ 11-12, *Vassallo*). The applicant was reunited with his children and therefore no further individual measures appear necessary in the case.
9. Regarding *Tonello* case, the Government provide the below mentioned informations:

1. Ongoing police tasks in the case

In order to locate the minor C.T., the investigating authority has taken the following measures.

On a monthly basis, in the framework of an intensified control for the purpose of search, they carry out data collection activities at residences linked to relatives of K.S. in Mezőtúr. Repeated checks are carried out to obtain medical treatment data from the records of the National Health Insurance Fund Management Agency (hereinafter referred to as: NEAK). According to replies to the inquiries, neither the child nor her mother, K. S. is listed in the NEAK database.

Inquiries are regularly sent to the Education Office to check records of the Institutional Administrative System of Student Identity Cards. According to the answers received, the child is not registered in the Institutional Administrative System of Student Identity Cards, which means she is not a student in any educational institution in Hungary. Periodically,

inquiries are sent to known parcel delivery service providers (with coverage in Mezőtúr) to determine whether the child's relatives identified in the search procedure have sent any parcels to K. S. or C. T.

Social networking sites are regularly monitored, with special attention to the relatives of the child.

Integrated address registers linked to the child are checked on a recurrent basis. Based on the data obtained, C.T. does not have a Hungarian address, and according to the Integrated Portal-based Query System, C. T. has a registered residence in Italy.

In connection with the disappearance of C.T. – in addition to the search procedure conducted by the Mezőtúr Police Department – the Jász-Nagykun-Szolnok County Police Headquarters have been conducting a secret information gathering procedure. In the course of this procedure, parcel delivery services, water and energy supply companies and other companies are regularly contacted, and the land registry is regularly checked, also for data relating to the relatives of the child.

2. Cooperation with the Italian authorities

As a result of earlier discussions with the Italian authorities on the establishment of a joint investigation team, **there is no possibility to establish an investigation team** if there is no ongoing investigation in the case that could serve as a basis for cooperation. Considering that the mother, K.S. is not currently under investigation, there is still no legal basis for setting up a joint investigation team.

3. Follow-up of the fine imposed on K.S.

The fine imposed on K.S. by the Szolnok District Court for the crime of changing the placement of a minor, upheld by the Szolnok Court of Appeal as second instance court, was paid by the mother of K.S. on 29 March 2021. Given the data available to the police regarding this payment, no further follow-up was necessary.

According to the International Law Enforcement Cooperation Centre, no request has been received from the Italian authorities regarding the execution of the conviction of K.S. by the Padova Court.

C. T. and her mother, K.S. are currently at an unknown location, and all efforts to locate them have so far proved unsuccessful.

4. Cooperation with foreign authorities in similar situations

In the case of the French citizen S.F.J., efficient cooperation with the French authorities was achieved through the family's lawyer and the French Interior Attaché in Budapest, as a result of which the minor was found on 31 August 2011 in the municipality of Boconád.

II. General measures

10. The Parliament adopted the Act of LXII of 2021 on the International Judicial Cooperation in Matters of Parental Responsibility (hereinafter referred to as: “the Act”), which entered into force on 1 August 2022. The scope of the Act extends to cases governed by Council Regulation (EU) 2019/1111 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction and by the Convention on the Civil Aspects of International Child Abduction (hereinafter referred to as: EU Regulation), signed in The Hague on 25 October 1980, promulgated by Law-Decree No 14 of 1986.
11. In accordance with Section 10 of the Act, the Central District Court of Pest has exclusive jurisdiction to conduct court proceedings for the return of a child brought to Hungary.
12. The table below shows the number of first-instance civil non-litigious proceedings aimed at the return of a child unlawfully brought to Hungary between 1 January 2019 and 30 June 2024.

Year	Number of incoming cases	Number of concluded cases	Average duration of concluded cases (days)
2019	19	16	74,8
2020	29	31	70,5
2021	23	24	47,0
2022	16	14	33,9
2023	21	24	39,0
First half of 2024	5	4	29,0

13. The average duration of concluded cases significantly decreased, in 2019 the average was 74,8 days, and in 2023 it was only 39 days meanwhile the number of concluded cases were higher as well.
14. It needs to be mentioned, that Article 11 § 3 of the EU Regulation sets a clear obligation on the domestic courts to issue a judgment within six weeks after the application is lodged. The datas above show that, the domestic proceedings seems to be more efficient and the duration of the cases comply with the requirement of exceptionality.

Training of the judges

The National Office for the Judiciary held a workshop on 4 and 5 March 2024 on the recent family law orientated questions of non-litigious proceedings. The workshop consisted of 19

presentations, including topics such as placement and revision of a travel alert for children at risk of being abducted, and the enforcement of domestic courts' orders on contacts.

Publication and dissemination

15. The judgments were translated and published on the website of the Ministry of Justice (see: <http://igazsagugyiinformaciok.kormany.hu/az-emberi-jogok-europai-birosaganak-iteletei> and have been disseminated to the competent national authorities.

III. Conclusions of the respondent state

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

Budapest, 30 September 2024

Zoltán Tallódi
Agent of the Government of Hungary