



FIRST SECTION

CASE OF MILÁK AND OTHERS v. HUNGARY

(Applications nos. 2130/20 and 10 others – see appended list)

JUDGMENT

STRASBOURG

30 September 2021

This judgment is final but it may be subject to editorial revision.

In the case of Milák and Others v. Hungary,

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Erik Wennerström, *President*,

Lorraine Schembri Orland,

Ioannis Ktistakis, *judges*,

and Attila Teplán, *Acting Deputy Section Registrar*,

Having deliberated in private on 9 September 2021,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in applications against Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The Hungarian Government (“the Government”) were given notice of the applications.

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The applicants complained of the excessive length of their pre-trial detention (Article 5 § 3 of the Convention). Some of the applicants also raised complaints under Article 5 § 4 of the Convention.

THE LAW

I. JOINDER OF THE APPLICATIONS

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

6. The applicants complained principally that their pre-trial detention had been unreasonably long. They relied on Article 5 § 3 of the Convention, which reads as follows:

Article 5 § 3

“3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.”

7. The Court observes that the general principles regarding the right to trial within a reasonable time or to release pending trial, as guaranteed by Article 5 § 3 of the Convention, have been stated in a number of its previous judgments (see, among many other authorities, *Kudła v. Poland* [GC], no. 30210/96, § 110, ECHR 2000-XI, and *McKay v. the United Kingdom* [GC], no. 543/03, §§ 41-44, ECHR 2006-X, with further references).

8. In the leading cases of *Gál v. Hungary*, no. 62631/11, 11 March 2014 and *Lakatos v. Hungary*, no. 21786/15, 26 June 2018, the Court already found a violation in respect of issues similar to those in the present case.

9. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the applicants’ pre-trial detention was excessive.

10. These complaints are therefore admissible and disclose a breach of Article 5 § 3 of the Convention.

III. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

11. Some of the applicants submitted other complaints which raised issues under Article 5 § 4 of the Convention, given the relevant well-established case-law of the Court (see appended table). These complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor are they inadmissible on any other ground. Accordingly, they must be declared admissible. Having examined all the material before it, the Court concludes that they also disclose a violation of Article 5 § 4 the Convention in the light of its findings in, among many authorities, *Bandur v. Hungary*, no. 50130/12, §§ 79 to 85, 5 July 2016.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

13. Regard being had to the documents in its possession and to its case-law (see, in particular, *Gál*, cited above), the Court considers it reasonable to award the sums indicated in the appended table.

14. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that these applications disclose a breach of Article 5 § 3 of the Convention concerning the excessive length of pre-trial detention;
4. *Holds* that there has been a violation of the Convention as regards the other complaints raised under well-established case-law of the Court (see appended table);
5. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 30 September 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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Attila Teplán
Acting Deputy Registrar

Erik Wennerström
President

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APPENDIX

List of applications raising complaints under Article 5 § 3 of the Convention
(excessive length of pre-trial detention)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Period of detention	Length of detention	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
1.	2130/20 17/12/2019	Zoltán Róbert MILÁK 1995	Kiss Dominika Szilvia Budapest	17/07/2017 to 28/11/2019	2 year(s) and 4 month(s) and 12 day(s)	Art. 5 (4) - excessive length of judicial review of detention - The courts examined the applicant's detention belatedly on multiple occasions.	4,200
2.	46758/20 01/10/2020	Gábor Viktor FAUR 1975	Kiss Dániel Bálint Budapest	30/07/2018 to 02/02/2021	2 year(s) and 6 month(s) and 4 day(s)	Art. 5 (4) - excessive length of judicial review of detention - The obligatory six-month review was carried out with a delay of 48 days. The obligatory one-year review was carried out with a delay of 33 days.	4,600
3.	46760/20 02/10/2020	Richárd ÁRMÁN 1979	Kiss Dominika Szilvia Budapest	28/03/2019 to 24/09/2020	1 year(s) and 5 month(s) and 28 day(s)	Art. 5 (4) - excessive length of judicial review of detention - On prolongations of detention, the Regional Court delivered a decision more than 2 months after the first instance decision, and it dealt with another appeal after 2 months. The obligatory 6-month and 12-month reviews took place respectively with a 72- and a 68-day delay.	2,700
4.	46805/20 07/10/2020	Roland BANGÓ 1998	Kiss Dominika Szilvia Budapest	06/08/2018 to 20/04/2021	2 year(s) and 8 month(s) and 15 day(s)	Art. 5 (4) - excessive length of judicial review of detention - The obligatory six-month review was carried out with a delay of 20 days. The obligatory 1-year and 1.5-years reviews were not carried out on time.	4,900

¹ Plus any tax that may be chargeable to the applicants.

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No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Period of detention	Length of detention	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
5.	48904/20 21/10/2020	Lajos KOVÁCS 1993	Kiss Dániel Bálint Budapest	04/03/2019 to 19/10/2020	1 year(s) and 7 month(s) and 16 day(s)	Art. 5 (4) - excessive length of judicial review of detention - The Regional Court reviewed the detention appeals with 1.5- and 2-month delays.	3,000
6.	51593/20 03/11/2020	Gábor GASPAROVICS 1996	Kiss Dániel Bálint Budapest	13/12/2017 to 30/11/2020	2 year(s) and 11 month(s) and 18 day(s)	Art. 5 (4) - excessive length of judicial review of detention - The obligatory one-year review was carried out with a delay of 95 days.	5,100
7.	54284/20 20/11/2020	Fabio Daniel ANTUNES LOURENCO 1993	Kiss Dominika Szilvia Budapest	12/07/2018 to 01/07/2020	1 year(s) and 11 month(s) and 20 day(s)	Art. 5 (4) - excessive length of judicial review of detention - The obligatory 6-month review of the applicant's pre-trial detention took place belatedly.	3,400
8.	595/21 22/12/2020	György WEITZ 1978	Kiss Dominika Szilvia Budapest	16/10/2018 to 22/10/2020	2 year(s) and 7 day(s)		2,700
9.	5078/21 13/01/2021	Kornél PITZ 1982	Kiss Dominika Szilvia Budapest	06/02/2019 to 13/10/2020	1 year(s) and 8 month(s) and 8 day(s)		2,500
10.	5080/21 14/01/2021	Tibor László VETÉSI 1963	Kiss Dominika Szilvia Budapest	05/04/2019 to 10/12/2020	1 year(s) and 8 month(s) and 6 day(s)	Art. 5 (4) - excessive length of judicial review of detention - The obligatory 6- month review was not carried out at all. An appeal of the applicant was decided with a delay of 3.5 months.	3,200
11.	10036/21 08/02/2021	Imre POKORNYI 1997	Kiss Dominika Szilvia Budapest	03/12/2018 pending	More than 2 year(s) and 7 month(s) and 6 day(s)	Art. 5 (4) - excessive length of judicial review of detention - The applicant's appeals were decided upon with a delay of over 2 months on three different occasions.	4,700