

Nos. 23A___, 23A___

In The Supreme Court of the United States

Zehava Friedman and Vera Deutsch Danos,
individually for themselves and on behalf of
all others similarly situated,

Petitioners,

v.

Republic of Hungary and Magyar Államvasutak Zrt.,

Respondents.

Steven Heller and Charles Heller,

Petitioners,

v.

Republic of Hungary,

Respondent.

**PETITIONERS' APPLICATION TO EXTEND TIME TO
FILE A PETITION FOR A WRIT OF CERTIORARI**

To the Honorable Chief Justice Roberts, as Circuit Justice for the United States Court of Appeals for the District of Columbia Circuit:

Petitioners Zehava Friedman, Vera Deutsch Danos, Steven Heller, and Charles Heller respectfully request that the time for them to file a Petition for a Writ of Certiorari be extended thirty days from January 10, 2024, to and including February 9, 2024. The Court of Appeals rendered its decision on August 8, 2023, App. A, and denied rehearing on October 12, 2023. App. B. Absent an extension, the Petition would therefore be due on January 10, 2014. This Application is being filed at least 10 days before that date. *See* S. Ct. R. 13.5.

The Court has jurisdiction to review the Circuit Court’s judgment pursuant to 28 U.S.C. § 1254(1).

Background

On October 20, 2010, Petitioners Zehava Friedman and Vera Deutsch Danos, together with other Jewish survivors of the Holocaust in Hungary (collectively “Survivors”), sued the Republic of Hungary and its national railway (both defendants are referred to herein collectively as “Hungary”) under the Foreign Sovereign Immunities Act of 1976 (FSIA), 28 U.S.C. §§ 1330, 1602 *et seq.*, seeking compensation for property unlawfully seized. That action, *Rosalie Simon et al. v. Republic of Hungary, et ano.*, No. 1:10-cv-01770 (D.D.C.) (“*Simon*”), was previously before this Court. *See Republic of Hungary v. Simon*, 592 U.S. 207 (2021).

In *Simon*, the United States District Court for the District of Columbia, Beryl A. Howell, District Judge, granted Hungary’s motion to dismiss. 37 F. Supp. 3d 381 (D.D.C. 2014). Survivors appealed, and the Court of Appeals reversed in part and remanded. 812 F.3d 127 (D.C. Cir. 2016) (“*Simon I*”). The District Court then granted Hungary’s motion to dismiss a second time. 277 F. Supp. 3d 42 (D.D.C. 2017). Again, on Survivors’ appeal, the Court of Appeals reversed. 911 F.3d 1172 (D.C. Cir. 2018) (“*Simon II*”). Hungary sought certiorari, which this Court granted in part. *Republic of Hungary v. Simon*, 141 S. Ct. 187 (U.S. 2020). Meanwhile, since there was no stay of proceedings, the District Court denied Hungary’s motion to dismiss. 443 F. Supp. 3d 88 (D.D.C. 2020). Hungary appealed. In the certiorari proceeding before it, this Court then vacated the Circuit Court’s judgment in *Simon II* and remanded the case

for reconsideration in light of the Court’s decision that day in *Federal Republic of Germany v. Philipp*, 592 U.S. 169 (2021). Upon that reconsideration, the District Court granted in part and denied in part Hungary’s motion to dismiss. 579 F. Supp. 3d 91 (D.D.C. 2021). Both Hungary and Petitioners appealed. The Circuit Court affirmed in part and vacated and remanded in part. App. A; 77 F.4th 1077 (D.C. Cir. 2023) (“*Simon III*”).

In a second action, *Steven Heller, et ano. v. Republic of Hungary*, also filed in the United States District Court for the District of Columbia, Chief Judge Howell granted Hungary’s motion to dismiss. C.A. No. 21-cv-1739 (BAH), 2022 WL 2802351 (D.D.C. July 18, 2022). The national railway was not a defendant in that action. The two Survivors in that case, Steven Heller and Charles Heller, appealed. Their appeal was consolidated in the Circuit Court with the appeals of the *Simon* Survivors who had been dismissed. In *Simon III*, the Circuit Court affirmed the District Court’s dismissal of *Heller*.

The dismissals the Circuit Court affirmed in *Simon III* are the subject of the Petition for a Writ of Certiorari to be filed by Petitioners, the Survivors who have been dismissed. Hungary and its national railway have recently submitted a request for a thirty day extension of the deadline for their filing of a petition for writ of certiorari, directed to other aspects of *Simon III. Republic of Hungary, et ano. v. Rosalie Simon, et al.*, No. 23A_____ (December 21, 2023).

Reasons for Granting an Extension of Time

The time to file a Petition for a Writ of Certiorari should be extended for thirty days for three reasons:

First, no prejudice or significant delay will result from the granting of this requested brief extension. The proceedings surviving *Simon III* were remanded and are proceeding without a stay in the District Court. A Third Amended Complaint is currently scheduled to be filed on or before January 26, 2023. Further, Hungary has itself sought the same extension Petitioners seek herein, and Petitioners have no objection to such an extension for Hungary. In addition, if the extension is granted, the Petition should still be fully briefed and presented for the Court's consideration before the end of the current Term.

Second, Petitioners' counsel are in discussion with a Supreme Court counsel concerning his potential participation in this case and leadership in the preparation and pursuit of the Petition. The requested additional time is necessary to finalize the engagement and to enable the new counsel to participate fully in the preparation of the Petition.

Third, the Court may likely grant the Petition. The Court has previously granted certiorari in this case; Hungary has stated its intention to seek certiorari for review of the same Circuit Court judgment, *Simon III*, that is the subject of Petitioners' anticipated Petition; and the issues to be addressed in the Petition are important — as to their substance and its relationship to the limits on foreign sovereign immunity under the FSIA, and on another scale, as to the hundreds of

thousands of members of the putative class Petitioners Friedman and Danos seek to represent.

Conclusion

For the foregoing reasons, the time to file a Petition for a Writ of Certiorari in this matter should be extended for thirty days to and including February 9, 2023.

Dated: December 28, 2023

Respectfully submitted,

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