



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

SECOND SECTION

CASE OF HESZ v. HUNGARY

(Application no. 39382/06)

JUDGMENT

STRASBOURG

30 November 2010

FINAL

28/02/2011

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Hesz v. Hungary,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Françoise Tulkens, *President*,

Ireneu Cabral Barreto,

Danutė Jočienė,

András Sajó,

Nona Tsotsoria,

Kristina Pardalos,

Guido Raimondi, *judges*,

and Françoise Elens-Passos, *Deputy Section Registrar*,

Having deliberated in private on 9 November 2010,

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

PROCEDURE

1. The case originated in an application (no. 39382/06) against the Republic of Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Hungarian national, Mr György Hesz (“the applicant”), on 28 August 2006.

2. The Hungarian Government (“the Government”) were represented by Mr L. Hölzl, Agent, Ministry of Public Administration and Justice.

3. On 21 October 2009 the President of the Second Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

THE FACTS**THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1951 and lives in Budapest.

5. On 10 September 1992 the applicant brought an action against several respondents before the Budapest XX/XXI/XXIII District Court, requesting it to establish the invalidity of a contract and to order the respondents to vacate the house in which they lived.

6. Subsequently, several hearings took place and the opinion of an expert was obtained. Between 4 February 1997 and 20 May 1999 the case was suspended pending a related procedure before the land registry.

7. After several further hearings, on 30 June 2004 the District Court dismissed the action. On appeal, the Budapest Regional Court upheld the essence of the first-instance decision on 13 April 2005. On 4 April 2006 the Supreme Court dismissed the applicant's petition for review.

THE LAW

8. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement of Article 6 § 1 of the Convention. The Government contested that argument.

9. The Court observes that the period to be taken into consideration began only on 5 November 1992, when the recognition by Hungary of the right of individual petition took effect. However, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time. The Court notes that the case had been pending for about two months on that date. The period in question ended on 4 April 2006. It thus lasted thirteen years and seven months. Of this time, two years and three months corresponding to the suspension of the proceedings, apparently justified and thus not imputable to the State, must be deducted. However, the remaining period still exceeds eleven years and four months for three levels of jurisdiction. In view of such lengthy proceedings, this complaint must be declared admissible.

10. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present application (see *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or convincing argument capable of persuading it to reach a different conclusion in the present circumstances. Having regard to its case-law on the subject, the Court considers that the length of the proceedings was excessive and failed to meet the "reasonable time" requirement. There has accordingly been a breach of Article 6 § 1.

11. The applicant also complained under Article 6 § 1 of the Convention about the decisions given by the courts. In so far as his complaint may be understood to concern the assessment of the evidence and the result of the proceedings before the domestic courts, the Court reiterates that, according to Article 19 of the Convention, its duty is to ensure the observance of the engagements undertaken by the Contracting Parties to the Convention. In particular, it is not its function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention. Moreover, while Article 6 of the Convention guarantees the right to a fair hearing, it does not

lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and the national courts (*García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I). In the present case, the Court considers that the applicant's submissions do not disclose any elements of arbitrariness and, hence, no appearance of a violation of his rights under Article 6 of the Convention has been demonstrated. It follows that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected, pursuant to Article 35 § 4 of the Convention.

12. Relying on Article 41 of the Convention, the applicant claimed 8,000 euros (EUR) in respect of non-pecuniary damage. (He made no claim for costs and expenses.) The Government accepted the damages claim. The Court considers that the applicant must have sustained some non-pecuniary damage. It awards him the full sum claimed, i.e. EUR 8,000 (cf. *Wolfgéher and Turula v. Hungary*, no. 36739/05, § 11, 3 November 2009).

13. The Court considers it appropriate that the default interest 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. *Declares* the complaint concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 8,000 (eight thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into Hungarian forints 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 amount 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 November 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise Elens-Passos
Deputy Registrar

Françoise Tulkens
President