



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

FOURTH SECTION

CASE OF BÓNA v. SLOVAKIA

(Application no. 72022/01)

JUDGMENT

STRASBOURG

17 June 2003

FINAL

17/09/2003

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Bóna v. Slovakia,

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

Sir Nicolas BRATZA, *President*,

Mr M. PELLONPÄÄ,

Mrs V. STRÁŽNICKÁ,

Mr R. MARUSTE,

Mr S. PAVLOVSKI,

Mr L. GARLICKI,

Mr J. BORRERO BORRERO, *judges*,

and Mrs F. ELEN-PASSOS, *Deputy Section Registrar*,

Having deliberated in private on 20 May 2003,

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

PROCEDURE

1. The case originated in an application (no. 72022/01) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Slovakian national, Mr Peter Bóna ("the applicant"), on 3 April 2001.

2. The applicant was represented by Ms M. Knopová, a lawyer practising in Košice. The Government of the Slovak Republic ("the Government") were represented by Mr P. Vršanský, their Agent.

3. On 18 June 2002 the Fourth Section decided to communicate the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

4. On 29 November 1996 the applicant filed for divorce from his wife and for custody of their children before the Košice I District Court.

5. On 29 April 1998 the Košice I District Court requested the applicant to submit a certificate about his and his wife's residence. The applicant complied with the request on 15 May 1998. On 9 November 1998 the applicant's wife asked the court to proceed with the case as the situation in their family affected the children born out of the wedlock.

6. On 25 November 1999 the Košice I District Court transferred the case to the Košice II District Court for reasons of jurisdiction. On 14 February

2000 the Košice Regional Court found that the case fell within the jurisdiction of the Košice I District Court.

7. On 5 September 2000 the Košice I District Court appointed a guardian to the applicant's children in the context of the divorce proceedings. On 26 September 2000 both the applicant and his wife stated their position on the subject-matter of the case in reply to the court's request. On 4 October 2000 the District Court asked the applicant's employer to submit information about the applicant's income.

8. On 2 November 2000 the Košice I District Court heard the parties and delivered a judgment by which it granted a divorce to the applicant and his wife. The court further granted the custody of the children to the mother, decided on the maintenance and on the applicant's right to have contact with the children. The judgment became final on 31 January 2001.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

9. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement, provided in Article 6 § 1 of the Convention, which reads as follows:

"In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by [a] ... tribunal..."

10. The period to be taken into consideration began on 29 November 1996 and ended on 2 November 2000. It thus lasted 3 years, 11 months and 3 days.

A. Admissibility

11. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

12. The Government admitted that there had been undue delays in the proceedings. They mainly resulted from the fact that the judge dealing with the case was ill and subsequently retired.

13. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the criteria established by its case-law, particularly the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

14. The documents available indicate that the case was not particularly complex and that the length of the proceedings cannot be imputed to the conduct of the parties. The Court notes that, apart from having requested the applicant to submit a certificate about his and his wife's residence, the Košice 1 District Court did not effectively proceed with the case between 29 November 1996 and 25 November 1999, that is for almost three years. In these circumstances, and considering what was at stake for the applicant, the Court finds that the proceedings complained of cannot be deemed to satisfy the "reasonable time" requirement in Article 6 § 1 of the Convention.

15. The foregoing considerations are sufficient to enable the Court to conclude that the applicant's case was not heard within a reasonable time. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

16. 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."

A. Damage

17. The applicant claimed 430,000 Slovakian korunas (SKK) in respect of pecuniary damage on the ground that his former wife had alienated their common property. He also claimed SKK 2,000,000 in respect of non-pecuniary damage.

18. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. On the other hand, it awards the applicant 2,000 euros (EUR) in respect of non-pecuniary damage.

B. Costs and expenses

19. The applicant also claimed SKK 37,000 for the costs and expenses incurred in respect of the proceedings before both the domestic courts and the Court.

20. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court rejects the claim for costs and expenses in the domestic proceedings and considers it reasonable to award the sum of EUR 700 for the proceedings before the Court.

C. Default interest

21. 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 application admissible;
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 according to Article 44 § 2 of the Convention, EUR 2,000 (two thousand euros) in respect of non-pecuniary damage and EUR 700 (seven hundred euros) for costs and expenses, to be converted into Slovakian korunas at the rate applicable at the date of settlement, plus any tax that may be chargeable;
 - (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;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 17 June 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise ELEN-PASSOS
Deputy Registrar

Nicolas BRATZA
President