



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

FOURTH SECTION

CASE OF SIKA v. SLOVAKIA

(Application no. 69145/01)

JUDGMENT

STRASBOURG

24 June 2003

FINAL

24/09/2003

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 Sika v. Slovakia,

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

Sir Nicolas BRATZA, *President*,

Mr M. PELLONPÄÄ,

Mrs E. PALM,

Mrs V. STRÁŽNICKÁ,

Mr S. PAVLOVSCHI,

Mr L. GARLICKI,

Mr J. BORREGO BORREGO, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 27 May 2003,

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

PROCEDURE

1. The case originated in an application (no. 69145/01) 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 Vladimír Sika ("the applicant"), on 25 February 2001.

2. The Slovakian Government ("the Government") were represented by Mr P. Vršanský, their Agent.

3. On 18 June 2002 the Fourth Section declared the application partly inadmissible and decided to communicate the complaint concerning the length of the proceedings 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. The applicant was born in 1937 and lives in Trnava.

5. On 15 October 1993 the applicant claimed compensation from a limited liability company on the ground that the latter had failed to comply with a contract. On 12 November 1993 the Zvolen District court delivered a payment order by which it allowed the applicant's claim. On 29 November 1993 the defendant company challenged the payment order. On 3 December 1993 the applicant challenged the court's conclusion concerning the costs of the proceedings.

6. On 8 and 31 March 1994 the applicant and the defendant respectively submitted comments on the other party's observations.

7. On 12 May 1994 the applicant extended his action in that he increased the sum claimed. On 8 August 1994 the District Court admitted that the action be extended. As the applicant had failed to pay additional court fees concerning the extended part of his action, the District Court discontinued the proceedings in respect of the additional claims on 27 September 1994. Subsequently the judge left the judiciary and his cases had to be distributed among the other District Court judges.

8. Following the applicant's complaint, a hearing was scheduled for 23 June 1995. On that date the case was adjourned as the defendant failed to appear. On 3 and 6 July 1995 the applicant and the defendant submitted further information.

9. On 24 July 1995 the court heard the defendant. The applicant excused his absence and the case was adjourned. In the course of August 1995 the parties informed the District Court of their position regarding the possibility of settling the case.

10. On 21 December 1995 the applicant requested that a judgment be delivered. A hearing was scheduled for 4 March 1996. On 1 February 1996 the applicant informed the court that he would not be able to attend and proposed that he be heard, if need be, by the Trnava District Court.

11. On 4 March 1996 the Zvolen District Court allowed the applicant's action. On 3 April 1996 the judge dealing with the case asked for an extension of the time-limit for drafting the judgment with reasons. The judgment was sent to the parties on 10 May 1996.

12. On 28 May 1996 the defendant appealed. On 10 June 1996 the applicant submitted his comments and the case file was transferred to the Banská Bystrica Regional Court on 19 June 1996.

13. On 9 August 1996, on 27 December 1996 and on 14 May 1997 the applicant requested that the case be proceeded with. On 11 June 1997 the applicant was informed that the judges had a heavy workload.

14. On 9 September 1998 the Banská Bystrica Regional Court quashed the Zvolen District Court's judgment of 4 March 1996 and instructed the first instance court to take further evidence. The case-file was returned to the District Court on 9 November 1999.

15. On 23 November 1998 the applicant informed the District Court, at the latter's request, which further evidence he proposed to be taken. The applicant also increased the sum claimed by him. The District Court accepted this amendment of the action on 3 May 1999. On 5 May 1999 the District Court decided on court fees in respect of the applicant's additional claim. The applicant appealed against this decision on 19 May 1999. At the same time he requested that he should be exempted from the obligation to pay court fees as he was indigent.

16. On 24 May 1999 the District Court adjourned the case as the parties failed to appear. On 2 June 1999 the applicant was requested to substantiate his request for waiver of court fees.

17. The next hearing was scheduled for 20 October 1999. On 15 October 1999 the applicant excused his absence and asked the court to proceed with the case in his absence.

18. On 20 October 1999 the case was adjourned until 6 December 1999 as neither the applicant nor the defendant appeared. On the latter date the case was again adjourned. The applicant was requested to complement his request for waiver of court fees. He replied on 17 December and subsequently the court exempted him from the obligation to pay the court fees.

19. On 9 March 2000 the applicant urged the District Court to proceed with the case. On 27 March 2000 the applicant informed the court that he would not attend the hearing scheduled for 5 April 2000 and asked the District Court to proceed with the case in his absence. On 3 April 2000 the defendant's lawyer informed the District Court that he no longer represented the defendant. The hearing scheduled for 5 April 2000 was adjourned.

20. On 10 May 2000 the Zvolen District Court dismissed the applicant's action. It held that the contract in question was void as it neither specified the sum to be paid for the services offered by the applicant, nor did it stipulate that the parties had agreed to its conclusion without specifying the price, as required by Article 536 of the Commercial Code. The judgment with reason was typed on 17 July 2000 after the President of the District Court had allowed an extension of the statutory time-limit set for this purpose.

21. On 7 August 2000 the applicant appealed. On 27 September 2000 the President of the District Court assigned the case to a different judge as the judge originally dealing with it had been temporarily transferred to a different court. On 17 October 2000 the applicant was requested to pay the fees in respect of the appellate proceedings. On 20 October 2000 the applicant appealed. The case-file was transferred to the Banská Bystrica Regional Court on 24 November 2000.

22. On 19 December 2000 the Banská Bystrica Regional Court upheld the first instance judgment of 10 May 2000. By a separate decision delivered on 21 December 2000 it quashed the District Court's decision on the court fees in respect of the appellate proceedings.

23. On 20 February 2001 the president of the Zvolen District Court admitted that the overall length of the proceedings had been partly due to inactivity of the court and that the applicant's complaint in that respect was justified.

THE LAW

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

24. 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 ... hearing within a reasonable time by [a] ... tribunal...”

25. The Government admitted that the complaint was not manifestly ill-founded.

26. The period to be taken into consideration began on 15 October 1993 and ended on 19 December 2000. It thus lasted seven years and more than two months.

A. Admissibility

27. The Court notes that this complaint 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

28. The Government admitted delays in the proceedings before the Zvolen District Court between October 1994 and June 1995 and between 14 August 1995 and March 1996, and also in the proceedings before the appellate court between 28 May 1996 and August 1998.

29. 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).

30. The Court considers that the present case was not particularly difficult to determine. As regards the conduct of the applicant, the Court notes that he failed to appear at hearings on several occasions. However, the documents submitted do not indicate that the proceedings were thereby particularly delayed. Similarly, the defendant’s failure to appear on several occasions cannot account for the overall length of the proceedings. As regards the conduct of the domestic courts, the Court takes note of the

substantive delays admitted above by the Government. In respect of these delays it considers that the proceedings in question cannot be deemed to satisfy the “reasonable time” requirement in Article 6 § 1 of the Convention.

31. 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

32. 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

33. The applicant claimed 125,000 Slovakian korunas (SKK). That sum corresponded to the amount which he had claimed in the proceedings complained of and which, in his view, the domestic courts had arbitrarily refused to grant him.

34. The Government maintained that the applicant’s claim for pecuniary damages should be dismissed.

35. To the extent that the applicant may be understood as claiming that he suffered pecuniary damage on the ground that the domestic courts refused to grant his action, 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, the Court accepts that the applicant suffered damage of a non-pecuniary nature as a result of the protracted length of the proceedings. Making its assessment on an equitable basis and having regard to the circumstances of the case, it awards the applicant EUR 2,500 in respect of non-pecuniary damage.

B. Costs and expenses

36. The applicant also claimed SKK 3,072 for the costs and expenses incurred both before the domestic courts and in the proceedings before the Court.

37. 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 considers it reasonable to award the sum of EUR 70 covering costs under all heads.

C. Default interest

38. 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 (see the case of *Christine Goodwin v. the United Kingdom* [GC], no. 28957/95, § 124, 11 July 2002).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the remainder of 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 2,500 (two thousand five hundred euros) in respect of non-pecuniary damage and EUR 70 (seventy euros) in respect of costs and expenses, to be converted into Slovakian korunas at the rate applicable at the date of settlement, together with 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 24 June 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President