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

SECOND SECTION

CASE OF KÁROLY v. HUNGARY

(Application no. 58887/00)

JUDGMENT

STRASBOURG

2 December 2003

FINAL

24/03/2004

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 Károly v. Hungary,

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

Mr J.-P. COSTA, *President*,
Mr A.B. BAKA,
Mr Gaukur JÖRUNDSSON,
Mr L. LOUCAIDES,
Mr C. BÎRSAN,
Mr M. UGREKHELIDZE,
Mrs A. MULARONI, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 13 November 2003,

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

PROCEDURE

1. The case originated in an application (no. 58887/00) 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 Ferenc György Károly (“the applicant”), on 3 January 2000.

2. The Hungarian Government (“the Government”) were represented by their Agent, Mr L. Höltzl, Deputy State-Secretary, Ministry of Justice.

3. On 5 March 2002 the Court 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 1956 and lives in Kecskemét, Hungary.

5. The applicant was dismissed from his employment. On 28 August 1995 the applicant brought an action before the Budapest Labour Court claiming severance pay. On 15 November 1995 the Labour Court held a hearing. On that occasion the applicant modified his action and also requested that his dismissal be annulled.

6. On 6 February 1996 the Labour Court dismissed the applicant's request to be reinstated in his employment, holding that his claim in this connection had been submitted outside the statutory time-limit.

7. On 19 June 1996 the Budapest Regional Court, sitting as a second instance, dismissed the applicant's appeal against the partial decision of

6 February 1996. On 12 November 1996 the Supreme Court dismissed his petition for review.

8. As regards the remainder of the action, the Budapest Labour Court held further hearings on 27 May and 1 July 1998. On the latter date it awarded the applicant in the region of 130,000 Hungarian forints plus accrued interest by way of severance pay and outstanding wages.

9. On appeal, the Budapest Regional Court held hearings on 15 January, 14 April and 23 June 1999.

10. On 2 July 1999 the Regional Court increased the award in a partial judgment. On 2 September 1999 the applicant filed a petition for review with the Supreme Court. On 7 October 1999 the Supreme Court ordered that the petition be completed. On 25 February 2000 it appointed a legal-aid lawyer for the applicant.

On 3 January 2001 the Supreme Court dismissed, in a partial decision, the applicant's petition for review. This decision was served on the applicant on 7 February 2001.

11. Meanwhile, on 22 September 1999 the Regional Court suspended the proceedings conducted in respect of some claims still outstanding, pending the review proceedings.

12. Subsequent to the decision of 3 January 2001, the Regional Court resumed the proceedings. A hearing scheduled for June 2001 was adjourned as the notification sent to the applicant had been returned to the court undelivered. The Regional Court's further enquiry about the applicant's address was unsuccessful. Consequently, on 12 September 2001 the court suspended the proceedings. On 12 March 2002 the proceedings were discontinued, pursuant to section 137 § 1 (c) of the Code of Civil Procedure, as a six months' period had elapsed from the date of the order suspending the case.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION CONCERNING THE LENGTH OF THE PROCEEDINGS

13. The applicant complained that the length of the proceedings - especially in the period between 28 August 1995 and 3 January 2001 - 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 within a reasonable time by [a] ... tribunal..."

14. The Government contested that argument.

15. The period to be taken into consideration began on 28 August 1995 and ended on 12 March 2002. It thus lasted six years, six months and two weeks.

A. Admissibility

16. 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

17. The Government argued that the proceedings had been conducted before three levels of jurisdiction without any periods of delay, save between 12 November 1996 and 27 May 1998 when an administrative lapse had resulted in a period of inactivity. They also pointed out that some delay had occurred in the proceedings after 3 January 2001 due to the applicant's failure to provide the courts with his address.

18. The applicant contested this argument. He stressed that progress in the case, in particular between 28 August 1995, the date on which he filed the action, and 3 January 2001, the date on which the Supreme Court dismissed his petition for review, had been unreasonably slow.

19. 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).

20. The Court considers that the case was not particularly difficult to determine, either on the facts or on the law to be applied.

21. As to the conduct of the judicial authorities, the Court observes, in line with the Government's submission, that there was a period of inactivity between 12 November 1996 and 27 May 1998 due to an administrative mishap. This period of delay is to be imputed to the State.

22. As to the conduct of the applicant, the Court observes that, subsequent to the resumption of the proceedings on 3 January 2001, no communication from the Regional Court could be served on the applicant. As a consequence, the proceedings first had to be suspended and then discontinued on 12 March 2002. For the Court, this futile delay in the procedure lasting more than ten months is imputable to the applicant.

23. Having regard to the overall length involved and in particular to the period of inactivity of one and a half years for which the domestic courts

were responsible, and given that employment litigation generally requires particular diligence on the part of the domestic courts (see the *Obermeier v. Austria* judgment of 28 June 1990, Series A no. 179, pp. 23-24, § 72; the *Caleffi v. Italy* judgment of 24 May 1991, Series A no. 206-B), the Court concludes that the applicant's case was not determined within a reasonable time. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION CONCERNING THE FAIRNESS OF THE PROCEEDINGS

Admissibility

24. The applicant also complained that the decisions given by the domestic courts in the above proceedings were wrong. He invoked Articles 6, 13 and 14 of the Convention.

The Court considers that there is nothing in the case-file indicating that the courts hearing the case lacked impartiality or that the proceedings were otherwise unfair. Moreover, there is no appearance of any violation of the applicant's rights under Articles 13 and 14 of the Convention either.

It follows that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected under Article 35 § 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. 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

26. The applicant claimed 16,453,234 Hungarian forints (HUF) in respect of pecuniary damage and HUF 8,000,000 by way of non-pecuniary damage.

27. The Government submitted that the applicant's claims were excessive and argued that any compensation to be awarded should be assessed in the light of the relevant case-law of the Court in cases against Hungary.

28. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it awards the applicant 3,700 euros (EUR) in respect of non-pecuniary damage, having regard to what was at stake for him in the proceedings and to the fact that he can reasonably be considered to have suffered frustration on account of the length of time taken to conclude the litigation.

B. Costs and expenses

29. The applicant also claimed HUF 48,291 for the costs and expenses incurred in the proceedings before the domestic authorities and the Court.

30. 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 200 under this head.

C. Default interest

31. 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 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 according to Article 44 § 2 of the Convention, the following amounts, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 3,700 (three thousand seven hundred euros) in respect of non-pecuniary damage;
      (ii) EUR 200 (two hundred euros) in respect of costs and expenses, plus any tax that may be chargeable on that amount;

(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 2 December 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ J.-P. COSTA
Registrar President