



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

SECOND SECTION

CASE OF NAGY AND OTHERS v. HUNGARY

(Application no. 61530/00)

JUDGMENT

STRASBOURG

14 September 2004

FINAL

02/02/2005

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 Nagy and Others 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 K. JUNGWIERT,

Mr V. BUTKEVYCH,

Mrs W. THOMASSEN

Mr M. UGREKHELIDZE,

Mrs A. MULARONI, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having deliberated in private on 24 August 2004,

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

PROCEDURE

1. The case originated in an application (no. 61530/00) 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 three Hungarian nationals, Mr Gyula Nagy, Mr György Veizer and Mrs Györgyné Veizer (“the applicants”), on 4 June 2000. Mr and Mrs Veizer were represented by Mr I. Barbalics, a lawyer practising in Nagyatád, Hungary.

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

3. On 10 December 2002 the Court 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. The applicants were born in 1943, 1943 and 1944 and live in Dunavecse and Budapest, respectively.

5. By a judgment of 30 June 1988 delivered by the Budapest Regional Court the applicants were registered as the inventors of a tool called the “sledge”. Their shares in the invention were 35%, 20% and 40%, respectively, leaving 5% to a fourth person who is not a party to the proceedings before the Court.

6. On 5 October 1993 Mr Nagy and Mr Veizer brought an action before the Szabolcs-Szatmár-Bereg County Regional Court, sitting as a first-instance court, against an agricultural co-operative. They sought royalties and requested that they be given possession of the tool.

7. On 16 March and 25 May 1994 the Regional Court held hearings. On the latter date the court requested the defendant to submit certain documents. Having failed to comply with the order, on 16 September 1994 the court imposed a fine on the defendant.

8. On 2 March 1995 the Regional Court heard the parties.

9. On 9 March 1995 the Regional Court granted royalties and interest thereon to the plaintiffs and obliged the defendant to hand over the tool to Mr Veizer.

10. On appeals of March 1995, on 29 May 1996 the Supreme Court, sitting as a second-instance court, heard several witnesses. On 11 September 1996 the Supreme Court, in a partial decision, confirmed the first-instance judgment concerning the return of the tool but quashed the remainder and remitted it to the Regional Court.

11. Although the partial decision became final, the defendant failed to hand over the tool to Mr Veizer. The subsequent enforcement proceedings were unsuccessful. Consequently, Mr Nagy and Mr Veizer extended their action, claiming damages and unrealised profits resulting from the inability to use the tool.

12. In the resumed proceedings, on 6 January 1997 the Regional Court appointed an expert engineer. He submitted his opinion on 17 March 1997 and amended it on 10 June 1997.

13. The parties having failed to appear at the hearing on 14 October 1997, the Regional Court ordered the suspension of the proceedings. On Mr Veizer's request of 29 January 1998 the proceedings were resumed.

14. On 26 March and 9 June 1998 the Regional Court held hearings. On the latter date the court heard the expert and requested him to complete his opinion.

15. On 2 September 1998 the Regional Court put further questions to the expert, to which he replied on 25 September 1998. At the hearing on 30 September 1998 the court requested the parties to submit their observations on the completed expert opinion.

16. On 16 November 1998 the third applicant, Mrs Veizer, also brought an action on the same ground against the co-operative. Her action was joined to the remitted proceedings.

17. The Regional Court held hearings on 3 and 24 March 1999.

18. On 28 April 1999, the Szabolcs-Szatmár-Bereg County Regional Court accepted part of the applicants' claims. On 11 June 1999 the applicants appealed.

19. On 14 November 2001, the Supreme Court, sitting as a second instance court, confirmed the first-instance judgment. This decision became final.

THE LAW

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

20. The applicants complained that the length of the proceedings was 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...”

21. The Government contested that argument.

22. The periods to be taken into consideration began on 5 October 1993 in respect of Mr Nagy and Mr Veizer, and on 16 November 1998 in respect of Mrs Veizer. It ended on 14 November 2001. They thus lasted eight years and three years, respectively, involving two levels of jurisdiction.

A. Admissibility

23. The Court considers that Mr Nagy’s and Mr Veizer’s complaints are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

24. As regards Mrs Veizer’s case, the Court observes that her action was filed with the Regional Court only on 16 November 1998. The proceedings ended on 14 November 2001. They therefore lasted three years before two levels of jurisdiction. It is true that the appeal proceedings were somewhat protracted. However, for the Court, the overall length does not exceed the reasonable time required by Article 6 § 1 of the Convention. It follows that this applicant’s complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

B. Merits

25. The Government claimed that the applicants contributed to the length of the proceedings by failing to appear at the hearing on 14 October 1997 and by frequently modifying their actions. The

Government maintained that, apart from a period of inactivity which had occurred in the proceedings before the Supreme Court, the domestic courts had acted without any undue delay.

26. The applicants contested this.

27. 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 applicants and of the relevant authorities and what was at stake for the applicants in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

28. The Court considers that the case was not particularly difficult to determine as regards either the facts or the law to be applied.

Concerning the conduct of the parties, the Court observes that their non-attendance at the hearing of 14 October 1997 caused a delay of three months at the most. Moreover, it does not appear that the applicants abused their procedural rights in any manner.

As to the conduct of the judicial authorities, the Court considers that although the Regional Court scheduled hearings at regular intervals, the domestic courts did not use the time available to them to speed up the proceedings with a view to bringing the cases to an end as soon as possible.

Moreover, the Court observes that the applicants' appeals of 11 June 1999 were decided on by the Supreme Court only on 14 November 2001. This period of inactivity of two years and five months is attributable to the State.

29. The foregoing considerations are sufficient to enable the Court to conclude that the applicants' 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

30. 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

31. Mr Veizer claimed 67,118 euros (EUR) in respect of pecuniary and non-pecuniary damage.

Mr Nagy claimed EUR 78,740 in respect of pecuniary and non-pecuniary damage.

32. The Government found the applicants' claims excessive.

33. 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 Mr Veizer and Mr Nagy EUR 6,500 each in respect of non-pecuniary damage.

B. Costs and expenses

34. Mr Veizer claimed EUR 229 and Mr Nagy EUR 269 for costs and expenses.

35. The Government did not submit any observations on these claims.

36. 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 229 to Mr Veizer and the sum of EUR 269 to Mr Nagy.

C. Default interest

37. 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 in respect of Mr Veizer and Mr Nagy admissible;
2. *Declares* the complaint concerning the length of the proceedings in respect of Mrs Veizer inadmissible;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
4. *Holds*
 - (a) that the respondent State is to pay Mr Veizer, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 6,500 (six thousand five hundred euros) in respect of non-pecuniary damage and EUR 229 (two hundred and twenty-nine euros) in respect of costs and expenses, to be converted into the national currency of the respondent State, plus any tax that may be chargeable;

(b) that the respondent State is to pay Mr Nagy, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 6,500 (six thousand five hundred euros) in respect of non-pecuniary damage and EUR 269 (two hundred and sixty-nine euros) in respect of costs and expenses, to be converted into the national currency of the respondent State, plus any tax that may be chargeable;

(c) 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;

5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 14 September 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President