



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

SECOND SECTION

CASE OF RENOVIT ÉPÍTŐIPARI KFT v. HUNGARY

(Application no. 65058/01)

JUDGMENT

STRASBOURG

28 September 2004

FINAL

28/12/2004

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 Renovit Építőipari Kft 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 L. LOUCAIDES,

Mr K. JUNGWIERT,

Mr V. BUTKEVYCH,

Mrs W. THOMASSEN,

Mr M. UGREKHELIDZE, *judges*

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 7 September 2004,

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

PROCEDURE

1. The case originated in an application (no. 65058/01) 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 company, the Renovit Építőipari Kft ("the applicant"), on 1 November 2000.

2. The applicant was represented by Mr M. Imre, a lawyer practising in Budapest. The Hungarian Government ("the Government") were represented by their Agent, Mr L. Höltzl, Deputy State-Secretary, Ministry of Justice.

3. On 10 December 2002 the Court decided to communicate the application. Applying Article 29 § 3 of the Convention, it decided to rule on the admissibility and merits of the application at the same time.

THE FACTS

4. The applicant, Renovit Építőipari Kft, is a Hungarian limited liability company, with its seat in Budapest.

5. On 24 August 1990 the I. Company brought an action against the applicant company before the Budapest Regional Court, claiming compensation in the amount of 106,493 Hungarian forints (HUF).

6. On 30 October 1991 the Regional Court accepted the plaintiff's claims. The applicant appealed on 6 December 1991.

7. On 11 May 1994 the plaintiff's successor entered the proceedings.

8. On 12 May 1994 the Supreme Court quashed the Regional Court's judgment and remitted the case to the first instance court.

9. On 30 November 1994 the competent Pest Central District Court held a hearing and requested the plaintiff to specify its claims. On 15 December 1994 the plaintiff complied with this order and extended its action to include a second defendant.

10. On 10 January 1995 the District Court requested the applicant to submit observations on the specified claims. The applicant complied with this order on 20 January 1995.

11. On 8 March 1995 the District Court heard witnesses and requested the parties to submit further documents. The plaintiff and the applicant complied with this order on 9 March and 5 May 1995, respectively.

12. The District Court held hearings on 16 May and 26 September 1995, and 12 January, 10 April and 14 May 1996.

13. In the meantime, on 16 April and 26 August 1996, the court instructed the plaintiff to request that its legal predecessor be discharged from the proceedings. The plaintiff complied with the instruction on 20 September 1996.

14. On 6 November 1996 none of the parties appeared at the hearing. Consequently, the District Court stayed the proceedings.

15. On 8 April 1997 the plaintiff requested that the proceedings be continued. In the resumed proceedings, on 22 October 1997 the District Court held a hearing and requested the applicant to submit some documents.

16. On 6 February and 14 May 1998 the District Court held further hearings.

17. On 22 October 1998 the District Court delivered a judgment and ordered the applicant to pay HUF 106,493 to the plaintiff. The applicant appealed on 2 January 1999, outside the statutory time-limit. On 6 April 1999 the District Court decided to accept the applicant's explanation for the delay and transferred the case to the Budapest Regional Court.

18. At the hearing on 4 May 2000 the Regional Court upheld the first-instance decision.

THE LAW

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

19. 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 relevant:

“In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal...”

20. The Government contested that argument.

21. 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. By November 1992 the case had already been pending for two years.

The period to be examined by the Court ended on 4 May 2000. It thus lasted seven years and six months.

A. Admissibility

22. 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

23. 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 following criteria: the complexity of the case, the conduct of the applicant and 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).

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

25. As to the conduct of the applicant, the Court observes that on 6 November 1996 the District Court stayed the proceedings because none of the parties appeared at the hearing. The proceedings were resumed on the plaintiff's request of 8 April 1997. The resultant delay of five months is attributable to the applicant.

26. As regards the conduct of the judicial authorities, the Court observes that the domestic courts did not hold any hearing between 6 December 1991 and 12 May 1994. The period of inactivity of a year and a half, between 5 November 1992 (see § 21 above) and 12 May 1994, is therefore attributable to the respondent State.

27. Having regard to this significant inactivity and to the overall length of the proceedings, the Court considers that in the instant case 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.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

28. 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

29. The applicant claimed HUF 1,500,000¹ in respect of non-pecuniary damage.

30. The Government contested the claim.

31. The Court considers that it should award the full sum claimed, namely 6,000 euros (“EUR”).

B. Costs and expenses

32. The applicant also claimed HUF 320,000² for the costs and expenses incurred before the Court.

33. The Government contested the claim.

34. 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 500 EUR³ to cover the costs under all heads.

C. Default interest

35. 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;

¹ Approximately 6,000 EUR

² Approximately 1,280 EUR

³ Approximately 125,000 HUF

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, 6,500 EUR (six thousand five hundred euros) in respect of non-pecuniary damage and costs and expenses, to be converted into the national currency of Hungary 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 amount 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 28 September 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President