



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

SECOND SECTION

CASE OF MÓDER v. HUNGARY

(Application no. 4395/02)

JUDGMENT

STRASBOURG

5 October 2004

FINAL

05/01/2005

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 Móder 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 C. BÎRSAN,

Mr K. JUNGWIERT,

Mr M. UGREKHELIDZE,

Mrs A. MULARONI, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 14 September 2004,

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

PROCEDURE

1. The case originated in an application (no. 4395/02) 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, Mrs Istvánné Móder (“the applicant”), on 20 April 2001.

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

3. On 30 May 2003 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 was born in 1952 and lives in Budapest.

5. In the context of an inheritance dispute, two civil proceedings were brought against the applicant.

6. On 2 July 1990 Mr J.F.J. brought an action against the applicant before the Budapest XVIII/XIX District Court challenging her status as an heiress. On 10 November 1993 the District Court dismissed the action.

7. On 12 July 1990 Mrs T.K. brought another action against Mr J.F.J., Mr F.J. and the applicant before the Pest Central District Court.

8. On 4 September 1990 the District Court held a hearing and requested the parties to submit motions.

9. On 26 October and 12 December 1990 the District Court held hearings. At the hearings some of the parties did not appear since the

District Court had failed to summon them in accordance with the procedural rules. A hearing scheduled for 8 February 1991 was re-scheduled.

10. On 10 April and 20 June 1991 the District Court held hearings. On the latter date it stayed the proceedings pending the outcome of the proceedings before the XVIII/XIX District Court. In the latter proceedings, on 24 November 1992 the court held a hearing. On 27 May 1993 the District Court appointed an expert. On 10 November 1993 the court dismissed the plaintiff's claim. The judgment became final on 15 April 1994.

11. At the plaintiff's request, on 13 October 1994 the Pest Central District Court resumed its proceedings. Subsequently, another judge was appointed to hear the case.

12. On 24 January 1995 the District Court held a hearing. At the hearing the plaintiff withdrew her action in respect of Mr J.F.J. and Mr F.J.

13. On 18 May 1995 the District Court discontinued the proceedings in respect of Mr J.F.J. and Mr F.J. and ordered the applicant to submit further documents.

14. On 26 October 1995 the District Court delivered a judgment and partly admitted the plaintiff's claims. The applicant appealed.

15. On 20 June 1996 the Budapest Regional Court held a hearing and delivered a judgment which was pronounced on 27 June 1996. It partly quashed the District Court's decision and remitted the case to the first-instance court.

16. In the resumed proceedings, on 30 January, 28 February, 24 June and 18 November 1997, the District Court held hearings.

Subsequently, another judge was appointed to hear the case. On 30 January 1998 the District Court heard three witnesses.

17. On 22 July 1998 the District Court appointed a real-estate expert.

Subsequently, yet another judge was appointed to hear the case. On 23 June 1999 the District Court held a hearing.

18. On 1 July 1999 the District Court delivered a judgment. The applicant appealed.

In the appeal proceedings, the hearings scheduled for 10 February and 6 July 2000 were re-scheduled due to the illness of one of the judges.

19. On 16 May and 26 October 2000 the Regional Court held hearings. On the latter date it delivered a judgment which was pronounced on 2 November 2000.

THE LAW

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

20. 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...”

21. The Government contested that argument.

22. The periods 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 that date the proceedings had already been pending for two years and one month and two years and three weeks, respectively.

The periods in question ended on 10 November 1993 and 2 November 2000. They thus lasted one year and eight years, respectively.

A. Admissibility

23. Even assuming that the applicant may be said to have raised a separate complaint concerning the length of the proceedings instituted before the Budapest XVIII/XIX District Court, the Court observes that they had ended on 10 November 1993. However, the applicant lodged her application only on 20 April 2001, i.e. more than six months later.

It follows that this aspect of the application has been introduced outside the six-month time-limit prescribed by Article 35 § 1 and must be rejected pursuant to Article 35 § 4 of the Convention.

The Court finds that the complaint concerning the length of the proceedings instituted before the Pest Central District Court is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further finds that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

24. 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).

25. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

26. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, 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

27. 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

28. The applicant claimed 8,500 euros (EUR) in respect of non-pecuniary damage.

29. The Government found the applicant's claim excessive.

30. The Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards her EUR 6,500 under that head.

B. Costs and expenses

31. The applicant also claimed EUR 50 for the costs and expenses incurred before the Court.

32. The Government did not express a separate opinion on the matter.

33. The Court considers that the sum claimed should be awarded in full.

C. Default interest

34. 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 instituted before the Pest Central District Court 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, EUR 6,500 (six thousand five hundred euros) in respect of non-pecuniary damage and EUR 50 (fifty euros) in respect of costs and expenses, to be converted into the national currency of the respondent State 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 5 October 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President