



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

SECOND SECTION

CASE OF KÚTFALVI v. HUNGARY

(Application no. 4853/02)

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 Kútfalvi 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. 4853/02) 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, Mr Oszkár Kútfalvi (“the applicant”), on 20 November 2001.

2. The applicant was represented by Mr Gy. Benkő, 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 2 June 2003 the Court decided to communicate the application to the Government. 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. On 6 November 1995 the applicant, a stoker, brought an action against his employer seeking the invalidation of the termination of his employment.

6. The Labour Court held hearings on 17 January, 17 April and 19 June 1996. On the latter occasion, it dismissed the applicant’s action.

7. On appeal, on 26 March 1997 the Budapest Regional Court quashed the first-instance decision and discontinued the proceedings, holding that the applicant’s action was time-barred.

8. In review proceedings, on 10 December 1997 the Supreme Court quashed the Regional Court's decision and remitted the case to the first-instance court.

9. In the resumed proceedings, the Labour Court held hearings on 5 May, 30 June and 24 November 1998. On 26 May 1998 the court appointed a graphology expert who submitted his opinion on 24 September 1998. On the applicant's request, a further expert was appointed who submitted his opinion on 15 February 1999. The Labour Court held hearings on 2 September and 4 November 1999, 20 January, 29 February and 6 June 2000. On 7 December 2000 the Labour Court partly admitted the applicant's claim.

10. On the parties' appeal, the Budapest Regional Court held hearings on 3 April and 22 May 2001. On the latter occasion, the Regional Court upheld the Labour Court's decision.

11. On 31 August 2001 the applicant pursued a petition for review before the Supreme Court.

12. On 10 July 2002 the Supreme Court upheld the Regional Court's decision in essence and increased the interest rate to be applied.

THE LAW

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

13. 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..."

14. The Government did not contest that argument, but still submitted reasons for the delay.

15. The period to be taken into consideration began on 6 November 1995 and ended on 10 July 2002. It thus lasted six years and eight months before three court instances.

A. Admissibility

16. 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

17. The Court recalls 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). The Court reiterates that special diligence is necessary in employment disputes (*Ruotolo v. Italy*, judgment of 27 February 1992, Series A no. 230-D, p. 39, § 17).

18. 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).

19. 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

20. 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

21. The applicant claimed 41,200 euros (EUR) in respect of pecuniary and non-pecuniary damage.

22. The Government found the applicant’s claim excessive.

23. 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 EUR 3,300 in respect of non-pecuniary damage.

B. Costs and expenses

24. The applicant also claimed EUR 1,280 for the costs and expenses incurred before the domestic courts and for those incurred before the Court.

25. The Government contested the claim.

26. 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 500 to cover the costs under all heads.

C. Default interest

27. 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;
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 3,300 (three thousand three hundred euros) in respect of non-pecuniary damage and EUR 500 (five hundred euros) for costs and expenses, to be converted into the national currency of the respondent State 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 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