



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

SECOND SECTION

CASE OF MOLNÁR v. HUNGARY

(Application no. 22592/02)

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 Molnár 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. 22592/02) 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 Zoltánné Molnár (“the applicant”), on 6 May 2002.

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

3. On 28 April 2003 the Court decided to communicate the complaint concerning the length of the proceedings. 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 is a member of the Roma ethnic minority, who was born in 1943 and lives in Budapest.

5. On 3 October 1996 the applicant brought an action requesting that a flat which she had purchased from a third person, Mrs I.S., be vacated.

6. In the meantime, Mrs I.S. brought an action before the same court challenging the validity of the contract of sale.

7. On 2 April 1997 the Pest Central District Court suspended the proceedings relating to the applicant's action pending the outcome of the dispute over the validity of the contract of sale.

8. In the proceedings instituted by Mrs I.S., the Pest Central District Court held six hearings until 12 January 1999, when it dismissed the

plaintiff's action. On 28 October 1999 the Budapest Regional Court quashed the District Court's decision and remitted the case to first instance. Following five hearings, on 6 February 2001 the District Court dismissed Mrs I.S.'s action. This judgment was finally confirmed by the Budapest Regional Court on 13 September 2001.

9. On the applicant's request, on 2 May 2002 the District Court held a hearing in the case concerning the evacuation of the flat in question. With an order, the court again suspended the proceedings until the applicant's ownership had been registered by the Budapest Land Registry.

10. The applicant appealed against this order on 15 May 2002, submitting that the original copy of the contract of sale could not be located at the Land Registry with the result that the applicant's ownership of the flat could not be registered.

11. On 29 May 2002 the Budapest Land Registry informed the District Court that the original copy of the contract had been sent to the District Court in the context of the case terminated on 13 September 2001. It requested the court to return the contract to it.

12. On 9 July 2002 the Budapest Regional Court dismissed the applicant's appeal of 15 May 2002, holding that the registration of her ownership had to be dealt with as a preliminary question.

13. On 4 September 2002 the Land Registry informed the applicant that the District Court had not replied to its request to date.

14. On 17 September 2002 the applicant also requested the District Court to return the contract in question to the Land Registry.

15. In February 2004 the applicant was informed that the contract in question had been found at the court. The proceedings are apparently either still suspended or pending.

THE LAW

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

16. 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..."

17. The Government contested that argument.

18. The period to be taken into consideration began on 3 October 1996 and has not yet ended. It has thus lasted almost eight years to date.

A. Admissibility

19. 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

20. 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).

21. 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).

22. 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. ALLEGED VIOLATIONS OF ARTICLES 6 § 1, 13 AND 14 OF THE CONVENTION CONCERNING THE FAIRNESS OF THE PROCEEDINGS

Admissibility

23. The applicant also complained that the proceedings were unfair. She invoked Articles 6 § 1, 13 and 14 of the Convention.

The Court notes that the proceedings are still pending. This part of the application must therefore be rejected as being premature, pursuant to Article 35 §§ 1 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. 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

25. The applicant claimed 11,520 euros (EUR) in respect of pecuniary damage for the rent he has been paying and EUR 40,570 for non-pecuniary damage.

26. The Government contested these claims.

27. As regards the rent payments, the Court considers that since the applicant is entitled to recover them from the tenant in civil proceedings before the domestic courts, no award should be made under this head. However, it awards the applicant EUR 6,000 in respect of non-pecuniary damage.

B. Costs and expenses

28. The applicant also claimed EUR 392 for the costs and expenses incurred before the domestic courts and for those incurred before the Court.

29. The Government contested the claim.

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 that the sum claimed should be awarded in full.

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 excessive 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 concerning the length of the proceedings;
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 6,392 (six thousand three hundred and ninety-two euros) in respect of non-pecuniary damage and costs and expenses, converted into the national currency of the respondent State at the rate 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 5 October 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President