



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

SECOND SECTION

CASE OF SZILÁGYI v. HUNGARY

(Application no. 73376/01)

JUDGMENT

STRASBOURG

5 April 2005

FINAL

12/10/2005

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 Szilágyi 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 R. TÜRMEŒ,
Mr K. JUNGWIERT,
Mr M. UGREKHELIDZE,
Mrs A. MULARONI,
Mrs E. FURA-SANDSTRÖM, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the partial decision of 11 March 2003,

Having deliberated in private on 15 March 2005,

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

PROCEDURE

1. The case originated in an application (no. 73376/01) 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 national, Mr Imre Szilágyi (“the applicant”), on 12 August 2000.

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

3. On 11 March 2003 the Court declared the application partly inadmissible and decided to communicate the complaint concerning the length of the proceedings 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 1948 and lives in Budapest.

5. On 29 September 1995 the applicant brought an action against his former employer, the E. Rt, seeking the annulment of the termination of his employment and claiming payment of outstanding night-shift allowances. On 5 March 1996 the applicant modified his action and also requested that outstanding wages be paid to him.

6. On 21 May, 9 August and 6 September 1996, the Budapest Labour Court held hearings and, on 15 November 1996, it dismissed the applicant’s

claims. On 2 January 1997 the applicant appealed. On 16 August 1997 he finalised his appeal.

7. On 5 November 1997 the Budapest Regional Court upheld, as confirmed by the Supreme Court's review bench on 9 December 1998, the first-instance decision in so far as it concerned the termination of the applicant's employment. As regards the issue of the outstanding night-shift allowances, the Regional Court quashed the Labour Court's decision and remitted the case to it.

8. On 7 April 1999 the applicant requested that the final part of the proceedings be re-opened. He also submitted another petition for review against the final decision, which was rejected *ex officio* by the Supreme Court on 31 May 1999.

9. In the proceedings concerning the applicant's request for a re-opening, the Labour Court held hearings on 1 October, 5 November and 17 December 1999. Subsequently, all of the judges of the Labour Court declared bias and requested permission to withdraw from the case. On 9 May 2000 the Supreme Court appointed the Pest County Labour Court to hear the case.

10. In the resumed proceedings for outstanding wages, on 4 October 2000 the Pest County Labour Court heard the parties, and on 10 October 2000 it ordered a judicial auditing expertise. The expert's appointment was, however, cancelled on 4 December 2000. On 18 May, 22 June and 14 September 2001 the Labour Court held hearings.

11. On the applicant's motion, on 19 November 2001 the judges of the Pest County Labour Court declared themselves biased. On 9 January 2002 the Supreme Court appointed the Székesfehérvár Labour Court to proceed with the applicant's request for a re-opening. On 8 May 2002 the Labour Court rejected, as confirmed by the Fejér County Regional Court on 15 July 2002, the applicant's request for the re-opening.

12. On 27 June 2002 the Supreme Court appointed the Székesfehérvár Labour Court to examine the applicant's claim for outstanding wages in the resumed proceedings. On 21 October 2002 and 5 February 2003, the Labour Court held hearings.

13. On 19 May 2003 the Labour Court determined part of the applicant's claims. The applicant's appeal against this partial decision was dismissed by the Fejér County Regional Court on 6 April 2004. The applicant petitioned the Supreme Court for a review. These proceedings are still pending.

14. On 29 October 2004 the Székesfehérvár Labour Court suspended the proceedings concerning the remainder of the applicant's claims. On 5 January 2005 the Fejér County Regional Court dismissed the applicant's appeal against the order suspending the case.

THE LAW

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

15. The applicant complained that the length of the proceedings had been incompatible with the “reasonable time” requirement of 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...”

16. The Government contested that argument.

17. The period to be taken into consideration began on 29 September 1995 and has not yet ended. It has thus already lasted more than nine years and five months before three levels of jurisdiction.

A. Admissibility

18. 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

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

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

21. 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

22. 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

23. The applicant claimed 60,000,000 Hungarian forints¹ in respect of pecuniary and non-pecuniary damage.

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

25. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, an award of non-pecuniary damage is called for, although account must be taken of the substantial delay in the proceedings caused by the applicant’s futile motion to have his case re-opened. Ruling on an equitable basis, the Court awards the applicant 3,000 euros (EUR) under this head.

B. Costs and expenses

26. The applicant did not make any separate claim under this head.

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 remainder of 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

¹ Approximately 240,000 euros

Article 44 § 2 of the Convention, EUR 3,000 (three thousand euros) in respect of non-pecuniary damage, 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* unanimously the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 5 Apr, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President