



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

FIRST SECTION

CASE OF PITRA v. CROATIA

(Application no. 41075/02)

JUDGMENT

STRASBOURG

16 June 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 Pitra v. Croatia,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,

Mr L. LOUCAIDES,

Mrs F. TULKENS,

Mr P. LORENZEN,

Mrs N. VAJIĆ,

Mrs S. BOTOUCHAROVA,

Mr A. KOVLER, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 26 May 2005,

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

PROCEDURE

1. The case originated in an application (no. 41075/02) against the Republic of Croatia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Croatian national, Mrs Ljiljana Pitra (“the applicant”), on 29 October 2002.

2. The Croatian Government (“the Government”) were represented by their Agent, Ms L. Lukina-Karajković.

3. On 7 April 2004 the Court 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**THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1956 and lives in Osijek.

5. On 15 January 1997 the applicant was dismissed from her position at the Osijek Faculty of Agriculture (“the Faculty”). The decision had retroactive effect as of 27 November 1995.

6. On 17 January 1997 the applicant instituted civil proceedings challenging the lawfulness of the Faculty's decision. She claimed to have never been reinstated, as was required by a final court decision from proceedings she had previously instituted against the Faculty, and that she could therefore not have been dismissed.

7. On 12 July 1999 the Osijek Municipal Court (*Općinski sud u Osijeku*) ruled in the applicant's favour, ordering the Faculty to reinstate her.

8. Following an appeal by the Faculty, on 28 October 1999 the Osijek County Court (*Županijski sud u Osijeku*) upheld the first instance judgment.

9. The Faculty subsequently filed a request for revision on points of law (*revizija*). On 3 May 2000, the Supreme Court (*Vrhovni sud Republike Hrvatske*) reversed the first and second instance judgments and dismissed the applicant's claim. The Supreme Court found that the Faculty was under no obligation to reinstate the applicant and that therefore its decision was in line with the applicable law.

10. On 28 August 2000 the applicant lodged a constitutional complaint with the Constitutional Court (*Ustavni sud Republike Hrvatske*). She claimed that the Supreme Court's judgment was in breach of her constitutional right to work, of the rule of law and of the requirement that the courts adjudicate on the basis of laws and the Constitution.

11. On 24 March 2004 the Constitutional Court dismissed her complaint finding no violation of the alleged constitutional rights.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION CONCERNING THE LENGTH OF THE PROCEEDINGS

12. The applicant complained that the length of the proceedings had been incompatible with the “reasonable time” requirement, provided in 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 fair... hearing within a reasonable time by an independent and impartial tribunal established by law...”

A. Admissibility

13. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It also notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

14. The applicant maintained that the proceedings had lasted unreasonably long.

15. The Government contested that argument. They claimed that the first and the second instance court acted expeditiously and that the somewhat lengthy proceedings before the Constitutional Court were due to an inflow of complaints lodged with that court every year.

1. Period to be taken into consideration

16. The proceedings at issue began on 17 January 1997 and ended on 24 March 2004 with the decision of the Constitutional Court. They thus lasted 7 years, 2 months and 7 days.

17. The period to be taken into consideration began on 6 November 1997 after the Convention entered into force in respect of Croatia. It follows that a period of 6 years, 4 months and 18 days falls within the Court's competence *ratione temporis*.

2. Reasonableness of the length of the proceedings

18. 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 further 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).

19. As to the complexity of the case, the Government submitted that the proceedings were somewhat complex. However, based on the information in its possession, the Court considers that the proceedings at issue were not of such complexity as to justify their protracted character.

20. With respect to the conduct of the applicant, the Court observes that the Government did not claim that the applicant contributed to the length of the civil proceedings. The Court has no reason to hold otherwise.

21. As regards the conduct of the domestic authorities, the Court notes that, even though the lower instance courts and the Supreme Court acted without unreasonable delay, the applicant's case was pending before the Constitutional Court alone for about three and a half years. During this time, that court did not perform any procedural activity.

22. The Government further argued that the workload of the Constitutional Court had significantly increased at the material time and that it had to examine the constitutionality of certain laws of great political and social importance. In this connection, the Court recalls that it is for the Contracting States to organise their legal systems in such a way that their courts can guarantee to everyone the right to obtain a final decision on disputes relating to civil rights and obligations within a reasonable time (see, among other authorities, *Kind v. Germany*, no. 44324/98, § 52, 20 February 2003). It is aware, however, that this obligation cannot be

construed for a Constitutional Court in the same way as for an ordinary court. The role of a Constitutional Court as guardian of the Constitution makes it particularly necessary for it sometimes to take into account other considerations than the mere chronological order in which cases are entered on the list, such as the nature of a case and its importance in political and social terms (see the *Süssmann v. Germany*, judgment of 16 September 1996, *Reports of Judgments and Decisions* 1996-IV, p. 1174, § 56).

23. In the instant case, the Government have not submitted that there existed any specific circumstances which would be the reason for the Constitutional Court to delay its decision. A general work overload is no justification for an unreasonable delay, and other occurrences in the society can only have played a secondary role in the present case (see, *mutatis mutandis*, *Pammel v. Germany*, judgment of 1 July 1997, *Reports* 1997-IV, p. 1112, §§ 69-71). The Government's argument in this respect should therefore be rejected.

24. In light of the foregoing, the Court considers that the length of the proceedings in the instant case was excessive and failed to satisfy the reasonable time requirement (see, for example, *Diaz Aparicio v. Spain*, no. 49468/99, §§ 21-22, 11 October 2001).

25. There has accordingly been a breach of Article 6 § 1.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION CONCERNING THE FAIRNESS OF THE PROCEEDINGS

26. The applicant also complained that the judgment of the Supreme Court was wrong. She relied on Article 6 § 1 of the Convention.

27. In this connection, the Court recalls that according to Article 19 of the Convention its duty is to ensure the observance of the engagement undertaken by the Contracting States in the Convention. In particular, it is not its function to deal with errors of fact or of law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention (see *Schenk v. Switzerland*, judgment of 12 July 1988, Series A no. 140, p. 29, § 45).

28. It is true that in the instant case the applicant relied on Article 6 of the Convention. However, the Court observes that the applicant had the benefit of adversarial proceedings and that she was able to submit the arguments she considered relevant to her case at various stages of those proceedings. Moreover, the Court finds that there is nothing in the case-file to indicate that the national courts' decisions were arbitrary or that the proceedings were otherwise unfair and in breach of Article 6 § 1.

29. It follows that this complaint is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

30. 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

31. The applicant claimed pecuniary damage equal to the salary she would have earned if she had not been dismissed. She did not request any non-pecuniary damage.

32. The Government submitted that there was no causal link between the length of the proceedings and the applicant's allegedly lost earnings.

33. The Court considers that there is no causal link between the pecuniary damage claimed and the violation found. Consequently, no award is made under this head.

B. Costs and expenses

34. The applicant made no claims in respect of costs or expenses. Accordingly, no award is made under this head.

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;
3. *Dismisses* the applicant's claim for just satisfaction.

Done in English, and notified in writing on 16 June 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President