



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

SECOND SECTION

CASE OF MEZŐTÚR-TISZAZUGI VÍZGAZDÁLKODÁSI
TÁRSULAT v. HUNGARY

(Application no. 5503/02)

JUDGMENT

STRASBOURG

26 July 2005

FINAL

26/10/2005

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 Mezőtúr-Tiszazugi Vízgazdálkodási Társulat 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,

Ms D. JOČIENĚ,

Mr D. POPOVIĆ, *judges*,

and Mr S. NAISMITH, *Deputy Section Registrar*,

Having deliberated in private on 28 June 2005,

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

PROCEDURE

1. The case originated in an application (no. 5503/02) 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 association, the Mezőtúr-Tiszazugi Vízgazdálkodási Társulat (“the applicant”), on 6 August 2001.

2. The applicant was represented by Mr G. Varga, a lawyer practising in Budapest. The Hungarian Government (“the Government”) were represented by their Agent, Mr L. Hölztl, Deputy State-Secretary.

3. On 3 March 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 is a water management association founded under Act no. 57 of 1995 on Water Management, with its seat in Mezőtúr, Hungary.

5. On 18 December 1996 the applicant requested the Szolnok District Court to issue an order for payment against a limited liability company. On 27 March 1997 the respondent objected to the order and brought a counter-claim against the applicant. The proceedings continued as civil litigation.

6. The District Court held hearings on 20 February, 8 April and 16 September 1998. In the meantime, on 10 July 1998 the District Court imposed a fine on the applicant's legal representative for having failed to submit some requested documents.

7. On 22 October 1998 the District Court appointed an expert architect. The expert submitted his opinion on 14 May 1999. The parties submitted their observations on 28 June and 23 September 1999.

8. At the hearing of 24 September 1999, the applicant's legal representative failed to appear. The court imposed a fine on him and invited him to make a statement in writing. He submitted his statement on 29 October 1999.

9. The District Court held hearings on 13 December 1999 and 27 March 2000.

10. On 31 May 2000 the court heard the parties' representatives, the expert and some witnesses.

11. On 8 June 2000 the District Court dismissed the applicant's action and partly accepted the respondent's counter-claim.

12. On 23 November 2000 the Jász-Nagykun-Szolnok County Regional Court dismissed the applicant's appeal. It filed a petition for review.

13. On 17 April 2003 the Supreme Court dismissed the petition for review.

THE LAW

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

14. 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..."

15. The Government contested that argument.

16. The period to be taken into consideration began on 27 March 1997 at the latest and ended on 17 April 2003. It thus lasted some six years for three levels of jurisdiction.

A. Admissibility

17. 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

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).

19. 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).

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

Admissibility

21. The applicant also complained that the decisions given by the domestic courts in the above proceedings were wrong. It invoked Article 6 § 1 of the Convention.

The Court considers that there is nothing in the case file which indicates that the courts hearing the case lacked impartiality or that the proceedings were otherwise unfair. The mere fact that the applicant is dissatisfied with the outcome of the litigation cannot of itself raise an arguable claim of a breach of Article 6.

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

III. 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 44,555 euros (EUR) in respect of pecuniary and non-pecuniary damage.

24. The Government found the claim excessive.

25. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this part of the claim. However, it considers that the applicant must have sustained non-pecuniary damage (see *Comingersoll S.A. v. Portugal* [GC], no. 35382/97, § 36, Reports of Judgments and Decisions 2000-IV). Ruling on an equitable basis, it awards EUR 500 under that head.

B. Costs and expenses

26. The applicant did not specify any 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

1. *Declares* by 6 votes to 1 the complaint concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;
2. *Holds* by 5 votes to 2 that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* by 5 votes to 2
 - (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 500 (five hundred 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 26 July 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. NAISMITH
Deputy Registrar

J.-P. COSTA
President