



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

SECOND SECTION

CASE OF KÁRMÁN v. HUNGARY

(Application nos. 6444/02 and 26579/04 (joined))

JUDGMENT

STRASBOURG

22 November 2005

FINAL

22/02/2006

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 Kármán 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 deliberated in private on 3 November 2005,

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

PROCEDURE

1. The case originated in two applications (nos. 6444/02 and 26579/04) 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 Márta Kármán (“the applicant”), on 18 December 2001 and 22 May 2004, respectively.

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

3. On 18 August 2004 the Court decided to communicate the applicant’s complaint about the excessive 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**THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1942 and lives in Budapest.

5. On 25 June 1993 the Social Security Directorate of Budapest and Pest County requested that an order for payment be issued against the applicant on account of her overdue social security contributions.

6. On 30 July 1993 the applicant filed with the Directorate a court action contesting the order and, simultaneously, claiming damages. However, the Directorate only forwarded the action to the Pest Central District Court on 21 March 1995.

7. Hearings took place on 25 April and 27 November 1996. On that latter date the applicant failed to appear and the proceedings had to be stayed. On 27 February 1997 the applicant requested that the proceedings be resumed and, on 28 April 1997, that her claim for damages be transferred to the competent court. The principal proceedings resumed and a hearing was held on 27 January 1998. On 15 April 1999 the respondent was released from the case and replaced by the Tax Authority's competent Contributions Directorate. The court held a further hearing on 15 September 1999. On 7 December 1999 the District Court dismissed the applicant's action and upheld the Directorate's order for payment.

8. On appeal, the Budapest Regional Court held two hearings and obtained the opinion of an expert accountant. On 22 May 2001 it gave judgment, reducing the amount payable by the applicant. The decision was served on the applicant on 20 June 2001.

9. Meanwhile, in the proceedings for damages, the applicant's claims were transferred to the competent bench of the Budapest Regional Court on 26 August 1997. On 15 October 1997 she extended her claims to include another respondent. After an exchange of observations between the parties, hearings took place on 9 April and 1 October 1998 and 4 March 1999. During this period, the applicant was repeatedly instructed to submit evidence to support her claims. On 22 April 1999 she filed a medical certificate justifying that, for health reasons, she had not been able to do so earlier. On 30 April 1999 the court appointed a medical expert.

10. At the hearing on 1 July 1999 the applicant did not appear. Following an exchange of observations concerning the opinion of the expert and the submission of the applicant's amended claims, another hearing took place on 2 November 1999. The applicant again changed her claims on 8 November 1999 and 21 March 2000, extending her action to include yet another respondent. Further hearings took place on 28 March and 19 September 2000. On 30 November 2000 the court suspended the proceedings pending the termination of the case concerning the order for payment.

11. The proceedings resumed on 2 October 2001. Subsequently, the applicant extended her action to include a fourth respondent. The court held a hearing on 21 March 2002 and invited to applicant to specify her claims. She did so on 10 September 2002. Subsequently, she extended her action to include a fifth respondent. Another hearing took place on 3 October 2002. On 3 February 2003 the Regional Court gave judgment, finding in part for the applicant.

12. On 2 October 2003 the Budapest Court of Appeal upheld this decision and on 26 February 2004 the Supreme Court rejected the applicant's petition for review.

THE LAW

I. JOINDER OF THE APPLICATIONS

13. The Court notes that the two applications brought by the same applicant relate to identical complaints. It is appropriate therefore to join them and examine them together.

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

14. 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 insofar as relevant 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 30 July 1993 and ended on 26 February 2004. It thus lasted nearly ten years and seven months 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 convincing 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.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

21. Relying on Articles 6, 8, 14 and 15 of the Convention, the applicant also complained of the outcome of the proceedings.

22. In so far as the applicant’s complaint may be understood to concern the domestic courts’ assessment of the evidence and the result of the proceedings, the Court reiterates that, according to Article 19 of the Convention, its duty is to ensure the observance of the engagements undertaken by the Contracting Parties to the Convention. In particular, it is not its function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention. Moreover, while Article 6 of the Convention guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and the national courts (*García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I).

23. In the circumstances, there is nothing in the case-file indicating that the courts lacked impartiality or that the proceedings were otherwise unfair. Moreover, the applicant’s submissions do not disclose any appearance of a violation of any of the other Convention provisions which she has invoked.

24. 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.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. 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

26. The applicant claimed 100,000 euros (EUR) in respect of non-pecuniary damage.

27. The Government contested the claim.

28. The Court considers that the applicant must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards her EUR 6,000 under that head, having regard to the fact that the applicant also contributed to the protraction of the proceedings.

B. Costs and expenses

29. The applicant made no claim under this head.

C. Default interest

30. 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. *Decides* to join the applications;
2. *Declares* the complaint concerning the excessive length of the proceedings admissible and the remainder of the applications inadmissible;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 6,000 (six thousand euros) in respect of non-pecuniary damage, 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 amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 22 November 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
Presiden

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