



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

SECOND SECTION

CASE OF MAJERCSIK v. HUNGARY

(Application no. 13323/02)

JUDGMENT

STRASBOURG

20 December 2005

FINAL

12/04/2006

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 Majercsik 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 29 November 2005,

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

PROCEDURE

1. The case originated in an application (no. 13323/02) 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, Mr Antal Majercsik ("the applicant"), on 10 October 2001.

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

3. On 12 January 2005 the Court decided to communicate the application. 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 1949 and lives in Mátészalka, Hungary.

5. In proceedings instituted by the applicant, on 12 November 1993 the Supreme Court finally declared that his former employer had terminated his employment unlawfully and granted him severance pay and damages. Simultaneously, on 25 May 1993 the applicant brought an action before the Nyíregyháza Labour Court against the employer claiming pecuniary and non-pecuniary damages.

6. On 15 June 1995 the Labour Court dismissed the applicant's claims. On appeal, on 26 June 1996 the Szabolcs-Szatmár-Bereg County Regional Court granted the applicant damages plus accrued interest.

7. On 15 April 1997 the Supreme Court's review bench quashed the second-instance decision in its part concerning the pecuniary damages, and remitted this aspect of the case to the Regional Court.

8. In the resumed second-instance proceedings, on 29 September 1998 the Regional Court granted damages plus accrued interest to the applicant. This decision was partially quashed by the Supreme Court's review bench on 8 July 1999 for procedural shortcomings.

9. In the resumed second-instance proceedings, on 29 February 2000 the Regional Court granted some damages plus accrued interest to the applicant and dismissed the remainder of his action. On 29 March 2001 the Supreme Court's review bench partially quashed this decision as the Regional Court had miscalculated the amount granted to the applicant.

10. In the proceedings resumed for the third time, on 30 October 2001 the Regional Court granted the applicant damages plus accrued interest.

THE LAW

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

11. 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..."

12. The Government contested that argument.

13. The period to be taken into consideration began on 25 May 1993 and ended on 30 October 2001. It thus lasted eight years and five months for three levels of jurisdiction.

A. Admissibility

14. 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

15. 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).

16. 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).

17. 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. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

18. The applicant also complained under Article 6 § 1 about the outcome of the proceedings.

19. 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 – assuming exhaustion of domestic remedies – 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).

20. In the circumstances, there is nothing in the case-file indicating that the courts lacked impartiality or that the proceedings were otherwise unfair. 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

21. 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

22. The applicant claimed 20.2 million Hungarian forints (HUF) in respect of pecuniary damage and HUF 2 million in respect of non-pecuniary damage.

23. The Government contested these claims.

24. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it awards the applicant 4,500 euros (EUR) in respect of non-pecuniary damage.

B. Costs and expenses

25. The applicant also claimed HUF 500,000 for the costs and expenses incurred before the domestic courts and the Court.

26. The Government did not express an opinion on the matter.

27. The Court considers it reasonable to award the applicant, who was not represented by a lawyer, the sum of EUR 500 under this head.

C. Default interest

28. 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;

3. *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 4,500 (four thousand five hundred euros) in respect of non-pecuniary damage and EUR 500 (five hundred euros) in respect of costs and expenses, 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 amounts 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 20 December 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President