



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

THIRD SECTION

CASE OF KVEDER v. SLOVENIA

(Application no. 55062/00)

JUDGMENT

STRASBOURG

9 March 2006

FINAL

09/06/2006

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 Kveder v. Slovenia,

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

Mr J. HEDIGAN, *President*,
Mr B.M. ZUPANČIČ,
Mrs M. TSATSA-NIKOLOVSKA,
Mr V. ZAGREBELSKY,
Mr E. MYJER,
Mr DAVID THÓR BJÖRGVINSSON,
Mrs I. ZIEMELE, *judges*,

and V. BERGER, *Section Registrar*,

Having deliberated in private on 14 February 2006,

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

PROCEDURE

1. The case originated in an application (no. 55062/00) against the Republic of Slovenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Slovenian national, Mr Vili Kveder (“the applicant”), on 1 February 2000. In the course of the proceedings, the applicant died. His son, Mr Vili Kveder junior, declared that he wished to pursue his father’s application before the Court.

2. The Slovenian Government (“the Government”) were represented by their Agent, Mr L. Bembič, State Attorney-General.

3. The applicant alleged under Article 6 § 1 of the Convention that the length of the proceedings before the domestic courts to which he was a party was excessive.

4. On 23 January 2003 the Court decided to communicate the complaints concerning the length of the proceedings to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

5. The applicant, Vili Kveder, was a Slovenian national born in 1904, who lived in Vojnik. He died on 20 July 2000. His son and heir, Mr Viljem (Vili) Kveder, wished to pursue his father’s application before the Court.

6. On 15 January 1963 the applicant entered into a contract for the sale of 37,331 m² of his land to the State Company. He alleged that he had been forced by the State to conclude such a contract.

On 18 January 1965 the Celje administrative authorities nationalized the land in question.

1. Proceedings before the administrative authorities

7. On 29 August 1990 the applicant lodged an application with the administrative authorities of Celje.

8. On 24 January 1992 he lodged a formal request for the restitution of his property under the 1991 Denationalisation Act.

9. According to the applicant, he was instructed by the administrative authorities to institute proceedings also before the Celje Basic Court (*Temeljno sodišče*) (see below).

10. On 13 July 1992 the administrative authorities held a meeting with the applicant.

11. On 23 March 1993 the administrative authorities informed HKŽ, the entity holding the land in question, that the restitution claim had been lodged. On 9 April 1993 the latter responded to the claim.

12. On 24 February 1995 the State Attorney's Office requested a copy of the purchase agreement and other documents from the administrative authorities. On 5 July 1995 the latter prepared a response. On 10 January 1996 HKŽ submitted the requested documents.

13. On 18 September 1997 a hearing was held. The applicant was represented by his son Vili.

14. On 26 September 1997 the (renamed) Celje Administrative Unit (*Upravna enota*) terminated the proceedings, considering that the courts enjoyed jurisdiction in the present case.

15. On 24 October 1997 the file was transferred to the Celje District Court.

16. On 20 January 2000 the Celje District Court requested the Celje Administrative Unit to submit its file for review. The latter responded on 10 February 2000.

17. On 15 March 2001 the Celje District Court instituted a dispute on jurisdiction.

18. On 5 April 2001 the Constitutional Court ruled that the administrative authorities enjoyed jurisdiction.

19. On 11 May 2001 the Celje Administrative Unit received the file from the Celje District Court.

20. On 24 October 2001 the applicant's son, Mr Vili Kveder, informed the authorities of his father's death and that he continued the proceedings as his legal heir.

21. On 26 February 2002 a notice of the lodging of the denationalisation claim was submitted to the liable entity.

22. On 5 March 2002 the applicant filed submissions.

23. On 11 March 2002 the parties were summoned for a hearing and on 26 March 2002 a hearing was held.

24. On 27 March 2002 a financial expert was designated.
25. On 8 and 11 April 2002 a certificate of the cadastral state was submitted.
26. On 16 April 2002 the applicant filed new documents.
27. On 22 April 2002 the expert was summoned.
28. On 3 July 2002 the expert established her schedule of costs.
29. On 4 July 2002 the administrative authorities ordered the applicant to make payment of a provision to the valuation expert. On 31 July 2002 the applicant appealed against the decision.
30. On 14 August 2002 the file was transferred to the appellate authority.
31. On 7 February 2003 the Ministry quashed the decision and returned the case for re-examination to the Celje Administrative Unit.
32. On 11 March 2003 the expert drew up an opinion.
33. On 13 March 2003 a hearing was held.
34. On 1 April 2003 the Celje Administrative Unit transferred a part of the applicant's claim to the Slovenian Compensation Society (*Slovenska odškodninska družba*). On the same day, it rendered an estimation of the value of the indemnity paid to the applicant and his wife after expropriation.
35. On 7 April 2003 the Celje Administrative Unit issued a report.
36. On 16 April 2003 a hearing was held.
37. On 18 April 2003 the Celje Administrative Unit issued a report.
38. On 23 April 2003 the Agricultural Land and Forestry Fund rendered an opinion. On 28 April 2003 the latter was transmitted to the applicant for comment. On 9 June 2003 further documents were transmitted to the applicant for comment.
39. On 23 June 2003 the Celje Administrative Unit issued a report.
40. On 28 June 2003 the applicant replied.
41. On 16 July 2003 the Celje Administrative Unit issued a decision partly awarding the applicant the co-ownership of the expropriated land. The applicant filed an appeal, claiming the immediate restitution of the land *in natura*.
42. On 22 October 2003 the Ministry for Agriculture, Forestry and Food partly modified the first-instance decision and rejected the remainder of the applicant's appeal.

2. Proceedings before the judicial authorities

43. On 1 June 1993 the applicant instituted restitution proceedings also in the Celje Basic Court.
44. On 13 December 1993 he extended his claim.
45. On 12 August 1994 the applicant requested an accelerated treatment of his case.
46. On 6 September 1994 the State-Attorney Office was invited to produce fresh evidence, which it did on 13 September 1994.

47. On 20 September 1994 the applicant filed new submissions.
48. On 29 September 1994 the court held a hearing.
49. On 18 September 1995 the State-Attorney Office filed submissions.
50. On 27 October 1995 the applicant filed submissions.
51. On 21 April and 23 June 1997 hearings were held.
52. On 17 March 1999 the Celje District Court (*Okrajno sodišče* - its new style further to the reform of 1995) held that the administrative authorities in charge of denationalisation proceedings in the applicant's case enjoyed jurisdiction and dismissed his claims.
53. The parties appealed and on 12 May 1999 the file was transferred to the appellate court.
54. On 23 June 1999 the Celje Higher Court quashed the challenged decision and sent the case back before the Celje District Court.
55. On 17 January 2000 the Celje District Court requested the Celje administrative authorities to submit its file for review. The latter responded on 11 February 2000.
56. On 15 March 2001 the Celje District Court asked the Constitutional Court to rule as to whether jurisdiction lay with the judicial or administrative authorities.
57. On 5 April 2001 the Constitutional Court held that it was the administrative authorities that enjoyed jurisdiction. The decision was served on the applicant on 18 April 2001.
58. On 5 April 2001 the file was transferred to the Celje Administrative Unit.

THE LAW

I. AS TO THE *LOCUS STANDI* OF MR VILI KVEDER JUNIOR

59. The Court must first address the issue of Mr Vili Kveder junior's entitlement to pursue the application originally introduced by the applicant who died in the course of the proceedings before the Court.
60. In 2001 Mr Kveder junior expressed his intention to continue the proceedings before the Celje Administrative Unit.
61. He has declared since April 2003 that he wishes to pursue his father's application before the Court.
62. The Court recalls that in various cases where an applicant died in the course of the proceedings it has taken into account the statements of the applicant's heirs or of close members of his family who expressed the wish to pursue the proceedings before the Court (see, for example, *X. v. France*, judgment of 31 March 1992, Series A no. 234-C, p. 89, § 26).

63. In the present case it is late applicant's next of kin who wishes to pursue the application before the Court. Moreover, Mr Kveder junior was confirmed as the applicant's universal heir according to the provisions of the national law by the Celje District Court decision of 24 October 2000.

64. The Court therefore considers that the conditions for striking the case out from the list of pending cases, as defined in Article 37 § 1 of the Convention, are not met and that it must accordingly continue to examine the application at Mr Kveder junior's request.

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

65. The applicant complained about the excessive length of the proceedings. He relied on 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..."

A. Admissibility

66. The Government pleaded non-exhaustion of domestic remedies.

67. The applicant contested that argument, claiming that the remedies available were not effective.

68. As far as the court proceedings are concerned, the Court notes that the present application is similar to the cases of *Belinger* and *Lukenda* (*Belinger v. Slovenia* (dec.), no. 42320/98, 2 October 2001, and *Lukenda v. Slovenia*, no. 23032/02, 6 October 2005). In those cases, the Court dismissed the Government's objection of non-exhaustion of domestic remedies because it found that the legal remedies at the applicant's disposal were ineffective.

69. As regards the instant case, the Court finds that the Government have not submitted any convincing arguments which would require the Court to distinguish it from its established case-law.

70. The Court further notes that the part of the application concerning the court proceedings is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. Nor is it inadmissible on any other grounds. It must therefore be declared admissible.

71. As far as the administrative proceedings are concerned, the Court notes that they began on 28 June 1994, the day when the Convention entered into force with respect to Slovenia, and ended on 26 September 1997, when the administrative authorities decided that the courts enjoyed jurisdiction. That part of the proceedings lasted approximately 3 years and 3 months for one degree.

72. The second part started on 5 April 2001, when the Constitutional Court decided that the administrative authorities enjoyed jurisdiction, and ended on 22 October 2003, when the Ministry for Agriculture, Forestry and Food partly modified the first-instance decision and rejected the remainder of the applicant's appeal. It therefore lasted approximately 2 years and 7 months for two decision-making levels.

73. However, the Court notes that the applicant failed to pursue his application under the conditions set out in the 1991 Act on Denationalisation and the 1997 Administrative Disputes Act in cases of protracted duration of administrative proceedings. In these circumstances, the Court concludes that the applicant cannot complain about the length of the proceedings before the administrative bodies since he has not, as required by Article 35 § 1 of the Convention, exhausted the remedies available under Slovenian law. This part of the application must therefore be rejected under Article 35 § 4 of the Convention (see *Sirc c. Slovénie* (dec.), no. 44580/98, 16 May 2002).

B. Merits

74. As far as the proceedings before the courts are concerned, the period to be taken into consideration began on 28 June 1994, the day when the Convention entered into force with respect to Slovenia, and ended on 18 April 2001, the day when the Constitutional Court's decision was served on the applicant. It therefore lasted approximately seven years and for three levels of jurisdiction.

75. 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).

76. Having examined all the material submitted to it, and having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings, in particular before the first-instance court, was excessive and failed to meet the "reasonable-time" requirement.

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

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

77. 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

78. The applicant did not claim any sums in respect of non-pecuniary damage.

B. Costs and expenses

79. The applicant did also not claim any reimbursement of costs and expenses incurred before the Court.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible as far as the proceedings before the courts are concerned;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention.

Done in English, and notified in writing on 9 March 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

John HEDIGAN
President