



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

SECOND SECTION

CASE OF VARGA v. HUNGARY

(Application no. 14338/03)

JUDGMENT

STRASBOURG

28 March 2006

FINAL

13/09/2006

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 Varga 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 I. CABRAL BARRETO,

Mr R. TÜRMEŇ,

Mr M. UGREKHĚLIDZE,

Ms D. JOČIENĚ,

Mr D. POPOVIĆ, *judges*,

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

Having deliberated in private on 7 March 2006,

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

PROCEDURE

1. The case originated in an application (no. 14338/03) 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 Běláně Varga (“the applicant”), on 30 March 2003.

2. The applicant was represented by Mr I. Barbalics, a lawyer practising in Nagyatád. The Hungarian Government (“the Government”) were represented by their Agent, Mr L. Hěltzl, Deputy State-Secretary, Ministry of Justice.

3. On 29 June 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

4. The applicant was born in 1928 and lives in Budapest.

5. On an undetermined date between December 1990 and October 1992, the applicant brought an action in trespass against her neighbour in the Pest Central District Court.

6. Between 19 October 1993 and 17 November 1998 the District Court held nine hearings, repeatedly instructed the applicant to submit better particulars of her claims and appointed a legal-aid lawyer. On the latter date it dismissed the applicant’s action, holding that the disturbance that had been caused by maintenance works on some pipes crossing through the

applicant's plot was of a reasonable extent and justified by the rights under the neighbour's easement.

7. On 19 November 1999 the Budapest Regional Court dismissed the applicant's appeal.

8. On 16 March 2000 the applicant filed a petition for review.

9. On 26 June 2002 the Supreme Court dismissed the applicant's petition for review, holding that the first and second instance judgments had been delivered according to the law. This decision was served on the applicant's lawyer on 17 October 2002.

THE LAW

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

10. 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..."

11. The Government contested that argument.

12. The period to be taken into consideration began only on 5 November 1992, when the recognition by Hungary of the right of individual petition took effect. (In any event, it is unclear at what date the proceedings originally commenced before October 1992.)

13. The period in question ended on 17 October 2002 with the service of the Supreme Court's decision. It thus lasted almost ten years 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 case (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 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.

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

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

19. Relying on Articles 6 and 14 of the Convention and Article 1 of Protocol No. 1, the applicant also complained that the domestic courts’ decisions were wrong.

20. The Court considers that there is nothing in the case-file indicating that the courts lacked impartiality, that the applicant, assisted by a legal-aid lawyer, could not properly state her case or that the proceedings were otherwise unfair. Moreover, the decisions of the domestic courts, given in a dispute between private parties in a procedure devoid of any appearance of arbitrariness, cannot be regarded as a deprivation of property. In these circumstances, the Court concludes that the applicant’s submissions do not disclose any indication of a violation of her rights under the Convention or its Protocols.

21. 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 respectively 4,000 euros (EUR) and EUR 20,000 in respect of pecuniary and non-pecuniary damage.

24. The Government considered these claims excessive.

25. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it considers that the applicant must have suffered some non-pecuniary damage. Ruling on an equitable basis, it awards the applicant EUR 6,000 under that head.

B. Costs and expenses

26. The applicant also claimed EUR 2,500 for the costs and expenses incurred before the domestic courts and the Court.

27. The Government contested the claim.

28. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court rejects the claim for costs and expenses in the domestic proceedings and considers it reasonable to award the sum of EUR 1,000 for the proceedings before the Court.

C. Default interest

29. 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 6,000 (six thousand euros) in respect of non-pecuniary damage and EUR 1,000 (one thousand 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 28 March 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. NAISMITH
Deputy Registrar

J.-P. COSTA
President