



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

SECOND SECTION

CASE OF KALLÓ v. HUNGARY

(Application no. 30081/02)

JUDGMENT

STRASBOURG

11 April 2006

FINAL

11/07/2006

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 Kalló 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 V. BUTKEVYCH,

Mr M. UGREKHELIDZE,

Mrs A. MULARONI, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 21 March 2006,

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

PROCEDURE

1. The case originated in an application (no. 30081/02) 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 László Kalló (“the applicant”), on 26 June 2002.

2. The Hungarian Government (“the Government”) were represented by their Agent, Mr L. Hölzl, 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.

4. On 16 November 2005 eleven individuals (see Annex), all secondary relatives of the applicant (siblings, etc.), informed the Registry that the applicant had been found dead on 15 March 2004, however, the date of his death could not be determined more precisely. They stated that they were the applicant’s statutory heirs, in support of which they submitted an order of 11 July 2005 issued by the Kazincbarcika Public Notary on the transfer of the estate, and that they wished to pursue the application.

THE FACTS

5. The applicant was born in 1941 and resided in Kazincbarcika. He died in March 2004.

6. On 2 September 1994 the applicant brought an action in the Miskolc Labour Court against his former employer, a joint-stock company. He requested the court to hold that his employment contract had been

terminated unlawfully, that he should be reinstated and that the agreement with the employer company to buy his shares from him be annulled.

7. After a hearing on 30 November 1994, on 15 February 1995 the Labour Court discontinued the proceedings partly because the applicant's action had been submitted outside the statutory time-limit, and partly because it had no competence in the case.

8. On 11 May 1995 the Borsod-Abaúj-Zemplén County Regional Court quashed part of the first-instance decision and appointed the Kazincbarcika District Court to deal with the applicant's civil law claim.

9. On 16 February 1996 the Supreme Court accepted the applicant's petition for review and remitted the labour law aspects of the case to the Labour Court.

10. Meanwhile, on 25 April 1995 the applicant instituted proceedings, seeking the payment of damages, additional wages and other benefits. After a hearing on 6 December 1995, on 28 March 1996 the Labour Court ordered that this action be joined to the original proceedings which were to be resumed pursuant to the Supreme Court's decision.

11. After hearings on 17 May and 7 June 1996, on 3 July 1996 the Labour Court gave a partial judgment. It stated that the company had terminated the applicant's employment unlawfully and ordered it to reinstate him.

12. On appeal, on 28 November 1996 the Regional Court quashed the first-instance partial judgment and dismissed the applicant's claim concerning the termination of his employment.

13. In the proceedings concerning the remainder of the case, on 8 April, 4 September and 2 November 1997, the Labour Court held hearings. On 16 December 1997 it accepted part of the applicant's claims for additional wages and outstanding benefits, but dismissed the remainder.

14. On appeal, on 2 April 1998 the Regional Court considered the first-instance judgment to be a partial decision and confirmed its contents. It held that the Labour Court had failed to examine some of the applicant's claims, and that in this respect the proceedings were to be continued.

15. In the resumed first-instance proceedings, on 15 June 1998 the Labour Court transferred part of the applicant's claims to the competent Kazincbarcika District Court. After a hearing on 13 January 1999, on 3 February 1999 it dismissed the applicant's action.

16. On 14 December 2000 the Regional Court dismissed the applicant's appeal.

17. On 18 April 2002 the Supreme Court dismissed the applicant's petition for review.

THE LAW

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

18. 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...”

19. The Government contested that argument.

20. The period to be taken into consideration began on 2 September 1994 and ended on 18 April 2002. It thus lasted more than seven years and seven months for three levels of jurisdiction.

A. Admissibility

21. The Court must first examine whether the applicant’s heirs are entitled to pursue the application.

22. The applicant’s heirs contended that, as demonstrated by the order of the Kazincbarcika Public Notary, they were statutory heirs of the applicant, either as his siblings or as children of other siblings already deceased.

23. Observing that the heirs had not been parties to the original proceedings, the respondent Government submitted that pure financial interest in compensation did not constitute a sufficient legal interest when, as in the present case, the alleged violation was by nature closely related to the person of the deceased applicant. In their view, a transfer of the victim notion can be accepted only if a person can be said to have been affected by the alleged violation in a way similar to that in which the original victim was affected. Lastly, they noted that the heirs, none of whom is a close family member of the late applicant, did not show any interest in the case, which is reflected in the fact that they informed the Court of his death only on 16 November 2005.

24. The Court recalls that in various cases in which an applicant died in the course of the Convention proceedings it took into account the statements of the applicant’s heirs or of close members of his family expressing their wish to pursue the application. The fact that, in the instant case, the heirs informed the Court of his death belatedly does not have any bearing on their request.

25. Consequently, and in accordance with its own case-law, the Court accepts in the present case that the applicant’s heirs are entitled to take the applicant’s place (see, for example, the *Vocaturo v. Italy* judgment of 24 May 1991, Series A no. 206-C, p. 29, § 2; the *X. v. France* judgment of

31 March 1992, Series A no. 234-C, p. 89, § 26; the *G. v. Italy* judgment of 27 February 1992, Series A no. 228-F, p. 65, § 2; the *Pandolfelli and Palumbo v. Italy* judgment of 27 February 1992, Series A no. 231-B, p. 16, § 2). However, the Court would point out that the examination of the admissibility and merits of the case must be limited to the question whether or not the complaints as originally submitted by Mr Kalló, who remains the applicant, disclose a violation of the Convention.

26. Moreover, 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

27. 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 applicants and the relevant authorities and what was at stake for the applicants in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). The Court further reiterates that special diligence is necessary in employment disputes (*Ruotolo v. Italy*, judgment of 27 February 1992, Series A no. 230-D, p. 39, § 17).

28. 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).

29. 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.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

30. The applicant also complained, without submitting any further argument or detail, of the outcome of the case, relying on Articles 3, 5, 6, 8, 13, 14 and 17 of the Convention and Article 1 of Protocol No. 1.

31. The Court considers that there is nothing in the case file indicating that the courts lacked impartiality, that the applicant could not properly state his case or that the proceedings, devoid of any sign of arbitrariness, were otherwise unfair, in breach of Article 6. Moreover, his submissions do not disclose any appearance of a violation of any other rights guaranteed by the

Convention or its Protocols. 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

32. 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

33. The applicant’s heirs claimed altogether 3 million Hungarian forints¹ (HUF), plus accrued interest at 20% p.a. from 1 January 2001 onwards, in respect of pecuniary and non-pecuniary damage.

34. The Government contested the claims.

35. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. Further, in view of the fact that the heirs to the deceased applicant’s estate are neither his parents nor children, it considers that, without more, they cannot be deemed to have suffered any significant non-pecuniary damage. Accordingly, the Court concludes that the finding of a violation in itself constitutes sufficient just satisfaction for any non-pecuniary damage sustained in the circumstances of the present case.

B. Costs and expenses

36. The applicant’s heirs made no claims under that head.

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;

¹ EUR 12,000

3. *Holds* that the finding of a violation in itself constitutes sufficient just satisfaction for any non-pecuniary damage sustained by the applicant's statutory heirs;

4. *Dismisses* the remainder of the claim for just satisfaction.

Done in English, and notified in writing on 11 April 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President

Annex – List of the applicant’s heirs

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|---------|---------------------|---------------------------|
| 1. Mrs | Árpádné FARKAS | residing in Kazincbarcika |
| 2. Mrs | Józsefné KRAJECZ | residing in Sajógalgóc |
| 3. Mr | Sándor József SZABÓ | residing in Szikszó |
| 4. Mr | Barnabás ÉLIÁS | residing in Kazincbarcika |
| 5. Mr | András Sándor KALÓ | residing in Szerencs |
| 6. Mr | István KALLÓ | residing in Debrecen |
| 7. Mr | József KALLÓ | residing in Budapest |
| 8. Mr | László KALLÓ | residing in Szikszó |
| 9. Mr | Attila KALLÓ | residing in Szikszó |
| 10. Mrs | Dánielné SIKU | residing in Kazincbarcika |
| 11. Mrs | Józsefné KERÉKI | residing in Szikszó |