



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

SECOND SECTION

CASE OF RATALICS v. HUNGARY

(Application no. 10501/03)

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 Ratalics 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. TÜRMEŒ,

Mr V. BUTKEVYCH,

Ms D. JOČIENĚ,

Mr D. POPOVIĆ, *judges*,

and Mrs S. DOLLĚ, *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. 10501/03) 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, Ms Ágnes Ratalics (“the applicant”), on 30 December 2002.

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

3. On 15 September 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 1959 and lives in Budapest.

5. On 14 December 1995 the applicant brought an action for divorce, the division of the matrimonial property, and the regulation of the use of the couple’s flat of common ownership.

6. The Pest Central District Court held hearings on 24 April, 20 October 1996, 16 February and 4 December 1997. On the latter date, the District Court pronounced the couple’s divorce and, at the parties’ request, suspended the proceedings concerning the division of the matrimonial property and the use of the flat. On 11 December 1997 the applicant requested that the examination of the case be continued.

7. Subsequently, the District Court held hearings on 12 June, 16 December 1998, 6 May 1999, and 24 May, 8 December 2000 and 23 January 2001.

8. On 8 February 2001 the District Court divided the parties' matrimonial property, granting ownership of the flat to the respondent, and ordered him to pay compensation to the applicant. The parties appealed.

9. On 3 July 2001 the Budapest Regional Court remitted the case to the District Court, instructing it to complete its decision, in particular, to decide on the applicant's claims concerning the use of the flat.

10. In the resumed first-instance proceedings, on 30 October 2001 the District Court dismissed the applicant's motion for bias.

11. On 22 February 2002 the court completed its original decision. It terminated the applicant's right to the enjoyment of the flat and dismissed her claims in this respect.

12. On appeal, the Regional Court held hearings on 4 July and 10 October 2002. On that date it partly changed the first-instance decision and gave ownership of the flat to the applicant, terminated the respondent's right of use, obliging him to leave the flat within 30 days, and ordered the applicant to pay compensation.

13. Since the respondent failed to comply with the decision, enforcement proceedings were instituted against him on 19 December 2002. On 20 March 2003 the District Court corrected its execution order.

14. On 22 April 2003 the Supreme Court rejected the respondent's petition for review, filed against the decision of 10 October 2002.

15. On 26 April 2003 the District Court appointed a judicial executor. On 16 June 2003 the applicant requested the executor to proceed with the case as soon as possible. On the same date the District Court dismissed the respondent's request to have the proceedings suspended. On 9 December 2003 the Regional Court dismissed his appeal.

16. On 19 February 2004 the applicant requested the District Court to order that the execution be carried out with the assistance of the police. On 2 March 2004 the court accepted the applicant's request and issued an order under section 174(d) of the Code of Judicial Enforcement.

17. On 9 April 2004 the respondent was evicted.

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 of 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 14 December 1995 and ended on 9 April 2004. It thus lasted almost eight years and four months for three levels of jurisdiction, including the execution phase.

A. Admissibility

21. 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

22. 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).

23. 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).

24. 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

25. The applicant also complained that the procedure before the domestic courts was unfair. She relied on Articles 6 and 13 of the Convention, Article 1 of Protocol No. 1 and Article 5 of Protocol No. 7.

26. In so far as the applicant's complaint may be understood to concern the assessment of the evidence and the result of the proceedings before the domestic courts, 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).

27. In the present case, the Court considers that there is nothing in the case-file indicating that the courts lacked impartiality or that the proceedings, devoid of any sign of arbitrariness, were otherwise unfair, in breach of Article 6. Moreover, the applicant's submissions do not disclose any appearance of a violation of her other rights under 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

28. 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

29. The applicant claimed 85,227 euros (EUR) in respect of pecuniary damage, which amount should correspond to the increase, on account of the protraction of the proceedings, of the amount of compensation payable by her to her ex-husband as well as to the latter's use of the flat during the period in question. In respect of non-pecuniary damage, she claimed EUR 20,000.

30. The Government contested these claims.

31. 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 sustained some non-pecuniary damage. Ruling on an equitable basis, it awards her EUR 3,000 under that head.

B. Costs and expenses

32. The applicant also claimed EUR 3,050 for the costs and expenses incurred essentially before the domestic courts.

33. The Government contested the claim.

34. 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

35. 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 3,000 (three thousand 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 11 April 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President