



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

SECOND SECTION

CASE OF METZOVÁ v. THE CZECH REPUBLIC

(Application no. 38194/02)

JUDGMENT

STRASBOURG

18 April 2006

FINAL

18/07/2006

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 Metzová v. the Czech Republic,

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

Mr J.-P. COSTA, *President*,

Mr I. CABRAL BARRETO,

Mr K. JUNGWIERT,

Mr V. BUTKEVYCH,

Mr M. UGREKHELIDZE,

Mrs A. MULARONI,

Mrs E. FURA-SANDSTRÖM, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 28 March 2006,

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

PROCEDURE

1. The case originated in an application (no. 38194/02) against the Czech Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Czech national, Ms Zdena Metzová (“the applicant”), on 17 October 2002.

2. The applicant was represented by Mr J. Brož, a lawyer practising in Brno. The Czech Government (“the Government”) were represented by their Agent, Mr V.A. Schorm, Ministry of Justice.

3. On 8 December 2004 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 1946 and lives in Brno.

5. On 29 May 1992 the applicant introduced before the Prague 4 District Court (*obvodní soud*) an action seeking the division of matrimonial property. According to the Government, the action was notified to the court on 1 June 1992. On 3 November 1992 the applicant’s former husband submitted his written comments on 295 pages.

6. On 8 September 1994 the District Court held a hearing which was adjourned in order to have an expert report drawn up. On 8 November 1994 an expert was appointed.

7. On 5 May 1995 the court invited the parties to an information meeting scheduled for 29 June 1995. However, the parties did not attend.

8. On 14 September 1995 another hearing was held in the absence of the defendant. On 17 November 1995 the expert informed the court that due to the defendant's failure to cooperate, he was not able to draw up the opinion. On 11 December 1995 the court ordered the parties to cooperate with the expert.

9. On 19 January 1996 the defendant notified the court that due to his illness, he could not submit the relevant documents, which he finally did on 16 February 1996. On 19 February 1996 the case file was sent to the expert who, in the meantime, had been withdrawn. On 25 March 1996 a new one was appointed. The case file was sent to him on 23 June 1996. On 11 October 1996 the expert, having been urged to do so on 23 September 1996, sent the case file back to the court stating that due to his workload, he did not have time to prepare the report. On 19 December 1996 the court appointed another expert and, on 6 February 1997, it sent him the case file.

10. On 24 February 1997 the expert informed the District Court that he did not have necessary documents. On 7 March 1997 the court met the expert. On 17 March 1997 it invited the parties to submit a copy of an entry in the Land Registry and a copy of a land map. On 27 May 1997 the court pressed the expert to prepare his opinion. He replied on 13 June 1997 that he still did not have the necessary documents. On 1 July 1997 the court then imposed a procedural fine on the defendant who, on 29 July 1997, appealed. On 10 December 1997 the expert presented his report.

11. At a hearing held on 15 January 1998, the parties expressed their willingness to reach a friendly settlement. Another hearing was held on 5 March 1998. The defendant submitted his comments on the expert report on 1 April 1998. A week later, the court ordered the expert to amend his report in accordance with the defendant's objections, which he did on 14 May 1998. At the same time, it appointed an expert to assess the value of movable property. She submitted her expert report on 24 November 1998.

12. On 29 December 1998 another expert was appointed to assess the value of other items. The expert informed the court, on 22 January 1999, that he was not sufficiently qualified for this work. On 27 January 1999 the court appointed a new expert who, however, repetitively did not take out the case file. The court then appointed another expert, to whom the case file was sent on 28 June 1999. The expert report was submitted on 10 August 1999.

13. In a judgment of 2 March 2000 the District Court, having held three hearings on 14 October, 3 February¹ and 2 March 2000 respectively, delivered a judgment by which it divided the matrimonial property.

14. On 12 May 2000 the defendant appealed. On 30 May 2000 the judge dealing with the case requested the president of the court to withdraw her from the proceedings following the defendant's insulting statements about her. She said that she felt biased. On 21 June 2000 the Prague Municipal Court (*městský soud*) granted her request.

15. On 10 July 2000 the case was assigned to another judge who, on 20 July 2000, invited the defendant to supplement his appeal. He complied on 20 August 2000. Five days later, the case was sent to the Municipal Court which, however, sent it back with a request to supplement it.

16. On 7 September 2000 the parties were ordered to pay court fees. On 26 October 2000 the case was again brought to the Municipal Court which, on 16 February 2001, quashed the lower court's judgment and remitted the case to it for further consideration.

17. On 1 March 2001 the applicant was invited to amend her action in accordance with the guidelines of the Municipal Court. On 4 April 2001 she objected that the appellate court's decision was incomprehensible. On 11 April 2001 the court delivered a rectifying resolution. On 4 July 2001 the applicant supplemented her action. On 16 July 2001 the defendant was invited to make his comments. Having been urged to do so on 4 September and 11 October 2001 respectively, he complied on 23 October 2001.

18. In a judgment of 29 January 2002 the District Court again decided on the distribution of the matrimonial property. On 11 March 2002 both parties appealed. On 19 March 2002 they were invited to supplement their appeals. The defendant complied on 27 March 2002, amending his arguments on 17 April 2002, after a lawyer had been appointed for him on 8 April 2002. The applicant presented her amendment on 23 May 2002.

19. On 31 October 2002 the court received the defendant's comments on the applicant's appeal. On 11 January 2003 the defendant "rectified" his appeal. On 6 February 2003 the case file was sent to the Municipal Court. On 22 April 2003 the defendant asked the court to grant him time to adduce further documentary evidence. On 13 May 2003 he submitted new comments on the applicant's appeal. On 2 June 2003 the case file was submitted to the appellate court.

20. On 1 August 2003 the defendant requested that a public hearing be adjourned.

21. On 15 October 2003 the Municipal Court appointed an expert to amend the expert report. The expert complied on 1 December 2003.

22. In a decision of 5 February 2004 the court upheld the District Court's judgment. On 30 March 2004 this decision became final.

¹ The parties were absent at the second hearing.

23. On 26 May 2004 the defendant filed an appeal on points of law (*dovolání*). On 12 August 2004 the case file was sent to the Supreme Court (*Nejvyšší soud*) which, on 1 September 2004, suspended the enforcement of the judgment. It appears that the proceedings are still pending.

THE LAW

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

24. 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...”

25. The period to be taken into consideration began on 1 June 1992 and has not yet ended. It has thus lasted about thirteen years and ten months for three levels of jurisdiction.

A. Admissibility

26. The Court notes that the application 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 applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). It further recalls that only delays for which the State can be held responsible may justify a finding that a “reasonable time” has been exceeded (see, *inter alia*, *Monnet v. France*, judgment of 27 October 1993, Series A no. 273-A, p. 12, § 30).

28. The Government submitted that proceedings on division of matrimonial property always involved a certain degree of complexity. In the present case, they mentioned the necessity to examine a number of expert opinions. The Government further observed that the defendant had delayed

the proceedings by failing to cooperate with the experts. Moreover, his written submissions were frequently voluminous. The Government added that the hearings had repeatedly been adjourned due to the parties' failure to appear. The Government admitted that certain delays in the proceedings had been caused by the experts, but underlined that the courts had always tried to remedy the problematic situation. According to them, the length of the proceedings had been caused by circumstances which could not be imputable to State organs.

29. The applicant disagreed with the Government. In conclusion, she stressed that there had been a violation of Article 6 § 1 of the Convention.

30. 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).

31. Having examined all the material submitted to it and despite the fact that the parties to the proceedings - particularly the defendant - contributed to some extent to the length of the proceedings, the Court considers that the Government have not put forward any fact or argument capable of persuading the Court 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. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

32. The applicant further complained of the fact that in the Czech Republic there was no court to which application could be made to complain of the excessive length of proceedings. She relied on Article 13 of the Convention.

33. The Court notes that this complaint is linked to the one examined above and must therefore likewise be declared admissible.

34. The Court reiterates that Article 13 guarantees an effective remedy before a national authority for an alleged breach of the requirement under Article 6 § 1 to hear a case within a reasonable time (see *Kudla v. Poland* [GC], no. 30210/96, § 156, ECHR 2000-XI). It notes that the objections and arguments put forward by the Government have been rejected in earlier cases and sees no reason to reach a different conclusion in the present case.

35. Accordingly, the Court considers that in the present case there has been a violation of Article 13 of the Convention on account of the lack of a remedy under domestic law whereby the applicant could have obtained a ruling upholding her right to have her case heard within a reasonable time, as set forth in Article 6 § 1 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

36. 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

37. The applicant left the matter of just satisfaction to the Court’s discretion.

38. The Government requested the Court, should it find a violation of the Convention, to allow the applicant, in respect of non-pecuniary damage, a sum which would correspond to the circumstances of the present case and would be based on its case-law.

39. The Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards award her EUR 9,000 under that head.

B. Costs and expenses

40. The applicant made no claim under this head.

C. Default interest

41. 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 application admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* that there has been a violation of Article 13 of the Convention;
4. *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 9,000 (nine thousand euros) in

respect of non-pecuniary damage, 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 amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

Done in English, and notified in writing on 18 April 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President