



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

SECOND SECTION

CASE OF PATTA v. THE CZECH REPUBLIC

(Application no. 12605/02)

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 Patta v. the Czech Republic,

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. TÜRMEK,

Mr K. JUNGWIERT,

Mr M. UGREKHEDIDZE,

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. 12605/02) 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, Mr Ivo Patta (“the applicant”), on 8 March 2002.

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

3. On 14 September 2004 the Court declared the application partly inadmissible and decided to communicate the complaint concerning the length of the proceedings. 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 1948 and lives in Prague.

5. The applicant’s grandmother owned a house and plot of land in Městec Králové, which the State seized in 1960 and returned to her in 1969. On 15 October 1970 she signed an agreement to sell the property to the Městec Králové Centre for Agricultural Apprenticeship (*Střední odborné učiliště zemědělské*), a State institute, and was paid CZK 123,233.35

(EUR 4,355). Subsequently, part of the property was transferred to the Consumer Cooperative (*spotřební družstvo*) and the Městec Králové Municipal Office (*městský úřad*).

i. Restitution proceedings under the Land Ownership Act

6. On 10 October 1991 the applicant requested the owners of the property under the Land Ownership Act to return the property to him, arguing that his grandmother had signed the sale agreement under duress and conspicuously disadvantageous conditions. Upon their refusal, on 4 December 1992 he requested the Nymburk Land Office (*pozemkový úřad*) to restore the property to him. His request was notified to the Land Office on 7 December 1992.

7. On 7 January 1993 the Land Office invited the applicant to submit certain relevant documents. At the same time, it interrupted the administrative proceedings until the administrative file would be complete.

8. On 13 and 30 August 1993 respectively, the applicant presented the requested documents. On 26 June 1994 he identified the plot of land.

9. On 7 September 1994 an inspection of the site was carried out. On 15 September 1994 the Land Office requested the Ministry of Environment to provide access to their archives in order to find a purchase contract of 1970. On 29 September 1994 the Municipal Office, upon the Land Office's request of 19 September 1994, submitted some additional documents. On the same day and on 17 October 1994 the applicant also added some documents.

10. On 23 November 1994 the Land Office ordered an expert opinion, which was drawn up on 14 January 1995.

11. On 25 January 1995 the applicant, at the Land Office's request of 13 January 1995, clarified his relations with other members of his family.

12. On 31 January 1995 the Land Office dismissed the applicant's request, stating that, while it was uncertain whether his grandmother had acted under duress, she had not sold the property under conspicuously disadvantageous conditions.

13. On 28 February 1995 the applicant appealed.

14. On 14 April and 5 June 1995 respectively, the Prague Municipal Court (*městský soud*) invited the applicant's representative to clarify his client's appeal. On 1 June and 3 July 1995 respectively, he complied.

15. The applicant's appeal was then sent to the other parties to the proceedings, who submitted their observations in August 1995.

16. In a judgment of 29 September 1995, the Municipal Court quashed the Land Office's decision and returned the case to it for further establishment of the facts.

17. On 29 November 1995 the Municipal Office interviewed witnesses in accordance with the Municipal Court's opinion expressed in its judgment. An inspection of the site was carried out.

18. On 8 December 1995 and 31 January 1996 respectively, the applicant lodged supplementary documents.

19. On 21 February 1996 the Land Office again dismissed the applicant's request for the restitution of the property.

20. On 6 March 1996 the applicant appealed, supplementing his appeal on 6 May 1996. On 8 July 1996 the Land Office presented its comments.

21. The defendant's observations were submitted on 12 March 1997. Its legal representative lodged some additional documents.

22. In a judgment of 16 May 1997, the Municipal Court upheld the Land Office's decision.

23. On 21 August 1997 the applicant filed a constitutional appeal (*ústavní stížnost*), supplementing it on 25 September 1997 upon the Constitutional Court's (*Ústavní soud*) request of 2 September 1997. He complained that he had not been duly invited to the hearing held before the Municipal Court on 16 May 1997, and that the latter had decided in his absence.

24. On 10 October 1997 the Constitutional Court invited the parties to the proceedings to present their observations, which they did at the end of October 1997.

25. On 20 January 1998 the applicant, in reply to the court's request of 13 January 1998, expressed his wish to hold a public hearing.

26. On 9 June 1998 the Constitutional Court, having held two hearings on 25 February and 9 June 1998, granted the applicant's constitutional appeal, quashing the Municipal Court's judgment.

27. On 30 July 1998 the case file was sent to the Municipal Court.

28. On 6 August and 7 October 1998 the applicant supplemented his original appeal. The other parties to the proceedings submitted their comments on the applicant's appeal in December 1998.

29. By a judgment of 2 February 1999, the Municipal Court again upheld the Land Office's decision.

30. On 14 June 1999 the applicant filed a constitutional appeal. In July and August 1999 the Constitutional Court requested that the files of the Municipal Court and Land Office be sent to it.

31. In December 1999 a judge rapporteur, to whom the applicant's case had been assigned, resigned from her office. Another judge rapporteur was appointed in April 2000.

32. On 9 February 2001 the latter invited the parties to the proceedings to submit their observations on the applicant's constitutional appeal.

33. On 30 April and 9 May 2001 respectively, the applicant without being represented by a lawyer, suggested that a case file concerning his restitution action dealt with the Nymburk District Court (*okresní soud*) be produced in evidence.

34. On 30 July 2001 the applicant, again without his lawyer's knowledge, challenged the judge rapporteur for bias. On 16 August 2001

the applicant's lawyer, in reply to the Constitutional Court's letter of 8 August 2001, informed the court that he did not see any reason to challenge the judge rapporteur for bias. On 29 August 2001 the Constitutional Court dismissed the applicant's challenge.

35. On 18 September 2001 it dismissed the applicant's constitutional appeal as manifestly ill-founded.

ii. Restitution proceedings under the Extra-judicial Rehabilitation Act

36. On 10 October 1991 the applicant requested the Centre for Agricultural Apprenticeship to return the property to him, pursuant to the Extra-judicial Rehabilitation Act. After its refusal, he requested the Nymburk District Court on 18 March 1992 to restore the property to him. On 24 March 1992 the court invited the applicant to remedy shortcomings in his submissions. He complied on 7 April 1992.

37. On 13 May 1992 the defendant submitted its comments.

38. On 18 September 1992 the District Court held a hearing which was adjourned *sine die* in order to examine documentary evidence, hear witnesses and verify the existence of an expert opinion.

39. On 20 September 1994 the Land Office informed the court about the restitution proceedings which the applicant had initiated under the Land Ownership Act.

40. On 8 February 1996 the court requested the Land Office to submit the administrative file. On 2 May 1996 the Land Office informed the court about the state of the administrative proceedings and explained that the administrative file was unavailable, having been sent to the Municipal Court.

41. On 15 July 1996 the applicant informed the District Court, upon its inquiry of 4 July 1996, that he insisted on the continuation of the proceedings despite his simultaneous restitution request dealt with by the Land Office. On 23 December 1996 the Land Office, in reply to the District Court's request of 29 November 1996, informed the court that the restitution proceedings under the Land Ownership Act were still pending before the Municipal Court.

42. On 20 June and 31 July 1997 respectively, the applicant submitted his own analysis of the case.

43. On 29 July 1997 the District Court discontinued the proceedings, finding that it lacked competence to deal with the case.

44. In a decision of 6 November 1997, the Prague Regional Court, upon the applicant's appeal of 19 August 1997, quashed the District Court's decision and remitted the case for further consideration.

45. In a letter of 16 March 1998, the applicant informed the District Court that he had changed his legal representative.

46. On 8 April 1998 the applicant's case was assigned to another judge at the District Court.

47. On 9 April 1998 the case file was sent to the Constitutional Court, which returned it on 31 July 1998.

48. In the meantime, on 22 June 1998, the applicant had lodged a new power of attorney.

49. On 23 October 1998 the District Court invited the applicant's lawyer to submit certain new documents and to clarify his client's action. On 27 October 1998 the lawyer requested the court to suspend the proceedings, explaining that the Municipal Court's judgment of 16 May 1997 had been quashed by the Constitutional Court and that all the relevant documents were in the administrative file which was in the hands of the Municipal Court. On 17 November 1998 the applicant's representative supplemented the merits of his client's action. On 2 December 1998 the document was sent to the defendant's lawyer.

50. On 4 December 1998 the District Court suspended the proceedings. The decision became final on 6 January 1999.

51. On 18 February, 3 August and 15 December 2000 and 28 February 2001, it made inquiries about the state of the restitution proceedings under the Land Ownership Act.

52. On 20 June 2001 the case file was again sent to the Constitutional Court, which returned it on 27 September 2001.

53. On 1 October 2001 the applicant's lawyer informed the District Court that the proceedings under the Land Ownership Act had been terminated by the Constitutional Court's decision of 18 September 2001 and that, therefore, the present restitution proceedings could continue. The District Court agreed to this on 6 February 2002. This decision became final on 22 March 2002. In the meantime, on 22 November 2001, the court had requested the Land Office and Municipal Court to send their case files to it.

54. On 17 June 2002 the applicant changed his legal representative. On 12 July 2002 the defendant submitted its opinion on the applicant's action.

55. On 23 July 2002 the District Court held a hearing which was adjourned until 26 September 2002. Another hearing due to be held on 28 November 2002 was adjourned until 9 January 2003 because of the judge's illness.

56. On 28 January 2003 the applicant adduced further documents in evidence. On 21 February 2003 the defendant made its comments. On 17 March 2003 the applicant replied.

57. On 28 March 2003 the District Court discontinued the proceedings for lack of competence, and referred the case to the Land Office. On 19 August 2003 the Regional Court, upon the applicant's appeal of 20 May 2003, upheld this decision.

58. On 25 February 2004 the Supreme Court (*Nejvyšší soud*) dismissed the applicant's appeal on points of law of 10 November 2003, holding that the conclusions of the lower courts had been in accordance with domestic law. On 24 May 2004 the case was sent to the Land Office.

59. On 5 October 2004 the Constitutional Court dismissed the applicant's constitutional appeal of 21 May 2004. It held, *inter alia*, that the case was *de facto* over, the restitution proceedings under the Land Ownership Act, which concerned the same property, having been terminated upon the final decision of the Land Office.

THE LAW

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

60. The applicant complained that the length of the restitution 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..."

1. Restitution proceedings under the Land Ownership Act

61. The period to be taken into consideration began on 7 December 1992 and ended on 18 September 2001. It thus lasted over eight years and nine months for three levels of jurisdiction. In this respect, the Court does not share the opinion of the Government that the proceedings lasted six years, seven months and eighteen days. While it is true that on 7 January 1993 the Land Office interrupted the proceedings for a while until the administrative file was complete (paragraph 7 above), this does not influence the overall length of the proceedings.

A. Admissibility

62. 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

63. The Government submitted that the restitution proceedings had been complex. They further submitted that the applicant had contributed to the length of the proceedings as he had failed to submit proper documents in support of his restitution action, and had repeatedly used the different remedies at his disposal challenging the decisions on the merits. Moreover,

his lawyer had been repeatedly invited to supplement his client's case, which the applicant had done twice on his own.

64. As to the conduct of the national authorities, the Government submitted that while the Land Office and the Municipal Court had examined the applicant's case without delay, they acknowledged that there had been some delay in the second proceedings before the Constitutional Court, caused partly by the applicant's unqualified submissions to add materials in evidence and to exclude the judge rapporteur from the examination of his constitutional appeal.

65. The applicant contested the Government's submissions. He maintained that the proceedings had not been particularly complex. He averred that he had not contributed to the length of the proceedings and that he could not be blamed for having used the domestic remedies at his disposal. The applicant argued that there were the delays in the proceedings caused by the judicial authorities.

66. 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).

67. The Court agrees with the Government that the proceedings at issue were of some complexity. The applicant clarified, amended and supplemented his claims on several occasions. The Court considers that the task of the administrative authority and the courts was rendered more difficult by these factors, although it cannot accept that the complexity of the case, on its own, was such as to justify the overall length of the proceedings.

68. As regards the conduct of the authorities, the Court notes that the Land Office showed diligence in the conduct of the proceedings and that the proceedings before the judicial authorities generally progressed at a normal pace except for the applicant's constitutional appeal: The applicant filed that appeal on 14 June 1999, but the Constitutional Court did not deliver judgment until 18 September 2001 (paragraphs 30 and 35 above). It is true that the court had to deal with the applicant's challenge of bias against the judge rapporteur, but the delay incurred thereby was negligible (paragraph 34 above).

69. As to the applicant's conduct, while there are some periods of delay that could be attributed to him (paragraph 8 above), the Court finds no reason to conclude that the applicant's behaviour was dilatory. Turning to the Government's argument that the applicant contributed to the delay in the proceedings by challenging the decisions on the merits, the Court reiterates that the applicant cannot be blamed for taking full advantage of the resources afforded by national law in the defence of his interests (see,

mutatis mutandis, *Yağcı and Sargın v. Turkey*, judgment of 8 June 1995, Series A no. 319-A, § 66).

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 was excessive and failed to meet the “reasonable time” requirement.

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

2. Restitution proceedings under the Extra-Judicial Rehabilitation Act

70. The period to be taken into consideration began on 18 March 1992. As to their end, the Court agrees with the Government that the *dies ad quem* of the proceedings at issue is 5 October 2004, when the Constitutional Court dismissed the applicant’s constitutional appeal (paragraph 59 above). The proceedings thus lasted over twelve years and six months for four levels of jurisdiction. In this respect, the Court does not share the opinion of the Government that the proceedings lasted nine years, four months and one day. While it is true that between 6 January 1999 and 22 March 2002, the proceedings were interrupted (paragraphs 50 and 53 above), this does not have an effect on the overall length of the proceedings.

A. Admissibility

71. 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

72. The Government were of the view that the proceedings had been complex, particularly taking into account the administrative proceedings which had simultaneously been held before the Land Office. Moreover, before transferring the case to the Land Office, the District Court had had to solve the question of the applicability of the Land Ownership Act.

73. The Government further observed that the applicant had contributed to the prolongation of the proceedings by failing to lodge his action properly, by challenging the District Court’s decisions to discontinue the proceedings, filing the appeal on points of law and the constitutional appeal, and by not opposing the District Court’s decision to suspend the proceedings.

74. As to the conduct of the domestic authorities, the Government acknowledged that there were some delays in the proceedings before the first instance court.

75. The applicant disputed the Government's arguments.

76. The Court refers to the assessment criteria in its case-law cited above (paragraph 66 above). Turning to the facts of the present case, the Court considers that there is a certain degree of complexity inherent in the nature of the proceedings. It does not, however, consider that this could in itself justify the overall length of the proceedings.

77. As to the conduct of the authorities, the Court observes that there were some periods of inactivity in the proceedings. In particular, there was a delay of two years between 18 September 1992, when the District Court held the first hearing, and 20 September 1994, when it was informed about the restitution proceedings held before the Land Office (paragraphs 38 and 39 above). Furthermore, the District Court took about a year and five months to contact the Land Office with a request for the administrative file (paragraph 40 above). There was another delay of about seven months between 23 December 1996, when the Land Office informed the District Court that the administrative proceedings were still pending, and 29 July 1997, when the court discontinued the proceedings (see paragraphs 41 and 43 above).

78. The Court also observes that the applicant partly contributed to the length of the proceedings, but it does not consider that his conduct was dilatory. Turning to the Government's argument that the applicant contributed to the delay in the proceedings by challenging the court decisions, the Court repeats that the applicant cannot be blamed for taking full advantage of the resources afforded by national law in the defence of his interests (paragraph 69 above).

79. In the Court's view, considering all the circumstances of this part of the application, the overall length of the proceedings in the instant case was excessive and failed to meet the "reasonable-time" requirement.

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

80. 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

81. The applicant claimed CZK 1,300,000 (EUR 45,816) in respect of pecuniary damage and CZK 300,000 (EUR 10,573) in respect of non-pecuniary damage.

82. The Government argued that the pecuniary damage alleged was unrelated to the violation complained of. As to the claim for non-pecuniary, they considered it excessive and left the matter to the Court's discretion.

83. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, on an equitable basis, it awards the applicant EUR 6,000 in respect of non-pecuniary damage.

B. Costs and expenses

84. The applicant also claimed CZK 87,000 (EUR 6,066) for the costs and expenses incurred before the domestic courts and CZK 68,000 (EUR 2,397) for those incurred before the Court.

85. In respect of the costs claim for the domestic proceedings, the Government submitted that only those costs incurred in an attempt to prevent the violation found could possibly be reimbursed. As regards the costs claim for the Convention proceedings, the Government considered that they were excessive. They submitted that a sum of between EUR 300 and 400 would be sufficient.

86. As to the costs claim concerning the domestic proceedings, the Court agrees with the Government that these costs were not incurred to prevent or rectify the Convention violation. It accordingly dismisses this claim.

87. With regard to the applicant's Convention costs, the Court reiterates that it does not consider itself bound by domestic scales and practices, although it may derive some assistance from them (see, among many other authorities, *Tolstoy Miloslavsky v. the United Kingdom*, judgment of 13 July 1995, Series A no. 316, p. 83, § 77, and *Baskaya and Okçuoglu v. Turkey*, nos. 23536/94 and 24408/94, § 98, ECHR 1999-IV). Deciding on an equitable basis, the Court considers that EUR 1,000 constitutes a reasonable award for costs in the circumstances of the present case.

C. Default interest

88. 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 remainder of the application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention in respect of the restitution proceedings under the Land Ownership Act;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention in respect of the restitution proceedings under the Extra-Judicial Rehabilitation Act;
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 6,000 (six thousand euros) in respect of non-pecuniary damage and EUR 1,000 (one thousand euros) in respect of costs and expenses, plus any tax that may be chargeable, to be converted into Czech crowns at the rate applicable at the date of settlement;
 - (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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

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