



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

SECOND SECTION

CASE OF KESZTHELYI v. HUNGARY

(Application no. 14966/03)

JUDGMENT

STRASBOURG

25 April 2006

FINAL

25/07/2006

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 Keszthelyi 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 M. UGREKHELIDZE,

Mrs E. FURA-SANDSTRÖM,

Ms D. JOČIENĚ,

Mr D. POPOVIĆ, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 4 April 2006,

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

PROCEDURE

1. The case originated in an application (no. 14966/03) 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 Tiborné Keszthelyi (“the applicant”), on 12 March 2003.

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

3. On 15 September 2005 the Court decided to communicate the application to the respondent Government. 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. In the context of a real estate dispute, the applicant and her late husband brought an action before the Buda Surroundings District Court apparently in July 1987. The action concerned their claim to possess part of a disputed real estate and their request that the relevant land registry entry be rectified.

6. On 20 November 1996 the District Court gave a partial decision as to the boundaries of the disputed land. As regards the land registry entry, the District Court ordered that this question be severed and dealt with by the Administrative Chamber of the District Court.

7. On 23 September 1997 the Pest County Regional Court suspended the appellate proceedings concerning the partial decision, pending the proceedings before the Administrative Chamber of the District Court. The latter held hearings on 7 October and 2 December 1997 and 27 January 1998. On that date it rejected part of the action and suspended the examination of another aspect of the case.

8. Meanwhile, the applicant and her late husband filed an application (no. 26209/95) with the European Commission of Human Rights (“the Commission”) complaining in essence about the protraction of the proceedings. On 21 May 1997 the application was declared partly admissible. On 9 December 1997 the First Chamber of the Commission adopted its Report under former Article 28 of the Convention, observing that the parties had concluded a friendly settlement.

9. On 22 June 1998 the Pest County Regional Court dismissed the plaintiffs’ appeal against the decision of 27 January 1998. On 14 June 1999 the Supreme Court dismissed their petition for review.

10. Following the subsequent adjudication of the question whose examination had been suspended on 27 January 1998 – in those proceedings the Regional Court held a hearing on 18 June 2001 and gave judgement on 25 June 2001 – the proceedings resumed in their part suspended on 23 September 1997.

11. The Regional Court held hearings on 9 May, 13 June and 1 October 2002. On 22 October 2002 it accepted the plaintiffs’ claims and ordered the land registry to restore the original situation. On 20 March 2003 it rejected the plaintiffs’ request for rectification.

12. In the resumed administrative proceedings, on 7 July 2004 the Buda Surroundings Land Registry refused to restore the original situation, observing that this was impossible because of the physical and legal changes concerning the disputed land in the meantime.

13. On 10 December 2004 the Pest County Land Registry dismissed the applicant’s administrative appeal.

14. On 24 January 2005 the applicant brought an action for judicial review. A first hearing was scheduled by the Regional Court for 15 September 2005.

THE LAW

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

15. 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...”

16. The Government contested that argument.

17. The Court considers that the period to be taken into consideration for the purposes of the present case began on 10 December 1997, the day after the Commission adopted its Report under former Article 28 of the Convention, observing that the parties had concluded a friendly settlement in respect of the complaint about the preceding length of the proceedings. On 15 September 2005 it had not yet ended, thereby having lasted on that date seven years and nine months for two levels of administrative and three levels of court jurisdiction.

A. Admissibility

18. 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

19. 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).

20. 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).

21. 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. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

22. The applicant further complained that the length of the proceedings complained of had infringed her right to the peaceful enjoyment of her possessions, as guaranteed by Article 1 of Protocol No. 1.

23. The Government did not address this issue.

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

25. Having regard to its finding under Article 6 § 1 (see paragraph 21 above), the Court considers that it is not necessary to examine whether, in this case, there has been a violation of Article 1 of Protocol No. 1 (see *Zanghi v. Italy*, judgment of 19 February 1991, Series A no. 194-C, p. 47, § 23).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

26. 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

27. The applicant claimed 35 million Hungarian forints¹ in respect of non-pecuniary damage.

28. The Government contested the claim.

29. The Court considers that the applicant must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards her 3,000 euros (EUR) under that head.

B. Costs and expenses

30. The applicant made no claim under this head.

¹ EUR 131,700

C. Default interest

31. 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 it is not necessary to examine whether there has been a violation of Article 1 of Protocol No. 1;
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 3,000 (three 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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 25 April 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President