



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

SECOND SECTION

CASE OF FODOR v. HUNGARY

(Application no. 4564/03)

JUDGMENT

STRASBOURG

23 May 2006

FINAL

23/08/2006

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 Fodor 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,

Mrs A. MULARONI,

Mrs E. FURA-SANDSTRÖM,

Ms D. JOČIENĚ,

Mr D. POPOVIĆ, *judges*

and Mr S. NAISMITH, *Deputy Section Registrar*,

Having deliberated in private on 2 May 2006,

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

PROCEDURE

1. The case originated in an application (no. 4564/03) 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 Julianna Fodor (“the applicant”), on 6 January 2003.

2. The applicant was represented by Mr T. Ágotai, a lawyer practising in Kisújszállás. The Hungarian Government (“the Government”) were represented by their Agent, Mr L. Höltzl, Deputy State-Secretary, Ministry of Justice.

3. On 13 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 1943 and lives in Tiszatenyő.

5. It appears that in October or December 1991 the applicant brought an official liability action against the Jász-Nagykun-Szolnok County Regional Court. She sought damages which she allegedly incurred as a consequence of the 1991 actions of a court bailiff belonging to the subordinate Szolnok District Court, when the bailiff was executing some claims enforceable on the applicant’s property.

6. On 24 November 1994 the Supreme Court appointed the Hajdú-Bihar County Regional Court to hear the case. On 2 December 1996 the applicant requested the court to give her case priority.

7. In January 1997 the defendant submitted its observations in reply to the applicant's claims. Hearings took place on 27 January and 10 March 1997. On the latter date, the proceedings were suspended pending the adjudication of another case. That case was terminated on 13 October 1998. However, it appears that the applicant only notified the Regional Court of this fact, requesting the continuation of the proceedings, in October 1999. She repeatedly requested the resumption of the proceedings in January 2003. Simultaneously, she challenged the Regional Court for bias. On 4 June 2003 the Supreme Court ordered that the case be transferred to the Szabolcs-Szatmár-Bereg County Regional Court.

8. This court held a hearing on 17 October 2003. On 22 October 2003 it dismissed the action.

9. On appeal, on 19 February 2004 the Budapest Court of Appeal quashed this decision and remitted the case to the first-instance court.

10. In the resumed proceedings, the Regional Court held a hearing on 28 June 2004. On 2 July 2004 it delivered a decision, which was partly upheld and partly quashed by the Court of Appeal on 25 November 2004.

11. Concerning the claims still pending, the Regional Court held hearings on 28 February and 29 April 2005. Two experts were appointed who submitted their opinions on 21 June and 6 October 2005, respectively.

12. On 26 October 2005 the Regional Court awarded the applicant some damages and dismissed the remainder of her claims.

13. The applicant appealed to the Debrecen Court of Appeal in January 2006. The proceedings are still pending.

THE LAW

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

14. 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..."

15. The Government contested that argument.

16. The period to be taken into consideration only began on 5 November 1992, when the recognition by Hungary of the right of individual petition took effect. However, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time. The Court observes that the case had already been pending for approximately a year on that date.

17. The period in question has not yet ended. To date, it has thus lasted over thirteen years and six months for two levels of jurisdiction.

A. Admissibility

18. 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

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 finds 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. APPLICATION OF ARTICLE 41 OF THE CONVENTION

22. 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

23. The applicant claimed 15 million Hungarian forints¹ in respect of non-pecuniary damage.

¹ 57,900 euros (EUR)

24. The Government contested the claim.

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

B. Costs and expenses

26. The applicant made no claim under this head.

C. Default interest

27. 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*
 - (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;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 23 May 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. NAISMITH
Deputy Registrar

J.-P. COSTA
President