



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

SECOND SECTION

CASE OF VARGA v. HUNGARY

(Application no. 3360/04)

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 Varga 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. 3360/04) 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, Mr István Varga (“the applicant”), on 21 November 2003.

2. The applicant was represented by Mr M. Nemes, a lawyer practising in Komárom. The Hungarian Government (“the Government”) were represented by their Agent, Mr L. Höltzl, 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 1948 and lives in Komárom.

5. On 3 July 1994 criminal proceedings were instituted against the applicant and his accomplices on charges of instigation to smuggling of weapons and of other offences.

6. On 6 December 1994 a bill of indictment was preferred.

7. The Tatabánya District Court held hearings on 20, 21 April, 9 May and 13 June 1995. On the latter date it ordered that the investigation be resumed. The time-limit for the completion of the investigation was prolonged on 7 September and 27 October 1995, and also at the hearings on

7 December 1995, 4 June and 13 November 1996. Simultaneously, legal assistance was being sought from the Slovak authorities.

8. Further hearings took place on 17 April, 7 October, 13 November and 11 December 1997. At the hearing on 22 January 1998 the case against two co-defendants was separated since they were abroad. Another hearing was held on 29 January 1998.

9. On 4 February 1998 the District Court acquitted the applicant.

10. On appeal, on 20 March 2000 the Komárom-Esztergom County Regional Court quashed this judgment, essentially for procedural shortcomings, and remitted the case. It ordered that the case be given priority.

11. In the resumed proceedings the case fell within the Regional Court's jurisdiction acting at first instance due to a legislative change.

12. The Regional Court held hearings on 7 February and 26, 27 and 28 June 2001. On the latter date it appointed a medical expert. A further hearing was held and another expert appointed on 27 September 2001.

13. Additional hearings took place on 1 March, 12 April, 30 August, 22 November and 20 December 2002, and 22 January, 25 February and 9 May 2003.

14. On 22 May 2003 the court finally acquitted the applicant.

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 of Article 6 § 1 of the Convention, which reads as follows:

"In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

16. The Government contested that argument.

17. The period to be taken into consideration began on 3 July 1994 and ended on 22 May 2003. It thus lasted more than eight years and ten 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 (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II)

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 *Pélissier and Sassi*, 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. 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 3 million Hungarian forints¹ in respect of pecuniary and non-pecuniary damage.

24. The Government contested the claim.

25. 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 him EUR 8,000 euros (EUR) under that head.

B. Costs and expenses

26. The applicant made no claim under this head.

¹ EUR 11,600

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 8,000 (eight 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