



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

FOURTH SECTION

CASE OF HROBOVÁ v. SLOVAKIA

(Application no. 2010/02)

JUDGMENT

STRASBOURG

8 June 2006

FINAL

08/09/2006

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 Hrobová v. Slovakia,

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

Sir Nicolas BRATZA, *President*,
Mr G. BONELLO,
Mr M. PELLONPÄÄ,
Mr K. TRAJA,
Mr L. GARLICKI,
Ms L. MIJOVIĆ,
Mr J. ŠIKUTA, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 16 May 2006,

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

PROCEDURE

1. The case originated in an application (no. 2010/02) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Slovakian national, Mrs Marta Hrobová ("the applicant"), on 12 December 2001.

2. The Government of the Slovak Republic ("the Government") were represented by their Agent, Mrs A. Poláčková.

3. On 11 October 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

4. The applicant was born in 1955 and lives in Kráľovský Chlmec.

1. Proceedings concerning the applicant's claim for damages

5. On 26 August 1992 the applicant sued a medical institution for damages before the Poprad District Court.

6. On 1 September 1992 the District Court sent the action to the defendant for comments.

7. Between 11 September 1992 and 5 May 1993 the District Court held several hearings. On the latter date the applicant challenged the judge and requested that the case be transferred to a different court.

8. On 26 August 1993 the Košice Regional Court found that the District Court judges were not disqualified.

9. On 24 November 1993 the District Court heard the parties and decided to obtain an expert opinion.

10. An expert was appointed on 24 March 1994. On 9 September 1994 a different expert was asked to submit the opinion as the first expert was abroad. As the second expert did not proceed with the expert's report, the District Court appointed a third one on 12 October 1995. The latter informed the court that he was not specialised in the relevant field. A different expert was therefore appointed on 7 November 1995. He submitted an opinion on 2 January 1996.

11. On 27 May 1996 the applicant sought to extend her claim. The District Court did not grant her request. It further decided to hear several witnesses.

12. On 29 September 1997 the applicant challenged the District Court judges. The District Court judges made a statement concerning this request in November 1997. The applicant's request for their exclusion was submitted to the Prešov Regional Court on 21 February 1999. The Regional Court dismissed the request on 12 March 1999.

13. Subsequently the District Court sought to obtain evidence as suggested by the applicant. In this context two witnesses living in the Czech Republic were to be heard.

14. On 21 January 2002 the District Court granted the applicant's claim in part. The applicant appealed.

15. On 7 October 2002 the vice-president of the Prešov Regional Court informed the applicant that her appeal had not yet been decided upon due to the heavy workload of the court.

16. On 18 February 2003 the Prešov Regional Court quashed the first instance judgment.

17. On 10 July 2003 the District Court allowed the applicant to extend her claim. It adjourned the case with a view to taking further evidence.

18. On 12 September 2003 the District Court asked a court in Brno (Czech Republic) to hear a witness.

19. On 13 October 2004 the applicant challenged the judge of the Poprad District Court. On 16 December 2003 the Regional Court in Prešov refused to exclude the District Court judge.

20. On 2 February 2004 the City Court in Brno submitted the requested evidence to the District Court in Poprad.

21. At a hearing held on 3 September 2004 the applicant was acquainted with the evidence which the District Court had obtained. The applicant requested that a new expert opinion should be obtained. The case was adjourned.

22. On 13 April 2005 the applicant informed the Court that the proceedings were still pending before the District Court in Poprad.

2. *Proceedings before the Constitutional Court*

23. On 18 December 2000 the applicant complained to the Constitutional Court about the length of the proceedings.

24. On 28 June 2001 the Constitutional Court found that the applicant's right to a hearing without unjustified delay had been violated. The decision stated that the case was not particularly complex and that the applicant had not contributed to the length of the proceedings in a significant manner. Undue delays in the proceedings before the District Court had occurred between 23 November 1993 and 24 March 1994, between 9 September 1994 and 12 October 1995 as well as between 29 September 1997 and 21 February 1999. Furthermore, the District Court had not acted in an appropriate manner when the defendant had failed to submit required information in time and when the expert appointed on 9 September 1994 had remained inactive for more than one year.

25. At that time the Constitutional Court lacked power to provide redress to the applicant (see, for example, *Jakub v. Slovakia*, no. 2015/02, §§ 25-28, 28 February 2006).

THE LAW

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

26. The applicant complained that the length of the proceedings was 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..."

27. The Government, with reference to the above finding of the Constitutional Court, did not contest that argument.

28. The period to be taken into consideration began on 26 August 1992 and, in view of the information before the Court, it has not yet ended. It has thus exceeded 13 years for two levels of jurisdiction.

A. Admissibility

29. 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

30. 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).

31. 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).

32. The applicant by her conduct contributed to a certain extent to the length of the proceedings, in particular since she repeatedly challenged the judges. Nevertheless, 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 overall length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

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

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

34. In her initial submissions the applicant complained of the absence of an effective domestic remedy in respect of her complaint under Article 6 § 1 of the Convention. She relied on Article 13 which reads as follows:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

35. In her submission of 16 February 2005 the applicant stated that she did not wish to pursue this complaint.

36. The Court takes note of the applicant’s statement (Article 37 § 1 (a) of the Convention) and finds that respect for human rights, as defined in the Convention and the protocols thereto, does not require it to continue the examination of this part of the application (Article 37 § 1 *in fine* of the Convention).

37. Accordingly, this part of the application should be struck out of the list.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

38. 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

39. The applicant claimed 1,5 million Slovak korunas (the equivalent of approximately 39,900 euros) in respect of non-pecuniary damage.

40. The Government contested the claim.

41. The Court considers that the applicant must have sustained non-pecuniary damage as a result of the excessive length of the proceedings. Ruling on an equitable basis, it awards her 6,000 euros under that head.

B. Default interest

42. 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

1. *Declares* the complaint under Article 6 § 1 of the Convention concerning the excessive length of the proceedings admissible unanimously;
2. *Decides* unanimously to strike out of the list of cases the complaint under Article 13 of the Convention;
3. *Holds* unanimously that there has been a violation of Article 6 § 1 of the Convention;
4. *Holds* by 6 votes to 1
 - (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, to be converted into the 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* unanimously the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 8 June 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President