



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

SECOND SECTION

CASE OF BÍRÓ v. HUNGARY

(Application no. 15652/04)

JUDGMENT

STRASBOURG

18 July 2006

FINAL

18/10/2006

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 Bíró 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,

Mr R. TÜRMEŒ,

Mr M. UGREKHELIDZE,

Mrs A. MULARONI,

Ms D. JOČIENĚ, *judges*,

and Mrs S. DOLLĚ, *Section Registrar*,

Having deliberated in private on 27 June 2006,

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

PROCEDURE

1. The case originated in an application (no. 15652/04) 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, Mrs Istvänné Bíró (“the applicant”), on 24 February 2004.

2. The Hungarian Government (“the Government”) were represented by their Agent, Mr L. Hőltzl, 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 1950 and lives in Budapest.

5. On 28 February 1995 the Budapest Regional Court ordered the liquidation of a co-operative, of which the applicant was a shareholder.

6. On 1 March 1995 the Regional Court appointed a liquidator and invited the creditors, including the applicant, to submit their exact claims.

7. On 19 May 1995 the shareholders established a “creditors’ group” in order to enforce their claims jointly.

8. On 26 July 1995 the applicant and other creditors challenged the liquidator’s decision to quash an earlier resolution of the co-operative’s president to terminate, in extraordinary dismissal proceedings, certain employment contracts with the co-operative. The proceedings concerning this problem were later separated.

9. On 20 January 1996 the court issued a decision on the classification of certain securities or claims held by the members. The creditors' group appealed. On 4 July 1996 the Supreme Court quashed the decision. The subsequent re-classification was accepted by 485 creditors and refused by 157, and was finally confirmed by the Supreme Court on 18 June 1997.

10. On 30 March 1998 the liquidator submitted his final report. It was upheld by the court on 28 July 1999. The report dealt with altogether 1,253 claims, of which 581 were accepted.

11. On 7 October 1999 the creditors' group appealed against the decision upholding the final report. The court rejected this objection. However, on 21 June 2001 the Supreme Court quashed this decision and remitted the question to the Regional Court. In the resumed proceedings, hearings were held on 10 October 2002 and 6 November 2003.

12. On 5 December 2003 the objection against the final report was dismissed by the Regional Court. On 12 July 2004 the Supreme Court quashed this decision in its part concerning the closing balance sheet and remitted this issue to the Regional Court.

13. A further hearing took place on 5 May 2005.

14. On 18 May 2005 the court rejected various objections concerning the liquidator's decisions. On 9 December 2005 an appeal against this decision filed by the applicant – who had in the meantime become president of the creditors' group – had not yet been adjudicated.

15. Meanwhile, a new final report was filed on 14 July 2005 and a legal-aid lawyer was appointed for the applicant.

16. The liquidation proceedings are apparently still pending.

THE LAW

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

17. 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..."

18. The Government contested that argument.

19. The period to be taken into consideration began on 28 February 1995 and on 9 December 2005 had not yet ended. It had already lasted on that date more than ten years and nine months for two levels of jurisdiction.

A. Admissibility

20. 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

21. 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).

22. 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).

23. 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

24. 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

25. The applicant claimed 7,994,900¹ Hungarian forints (HUF) in respect of pecuniary and HUF 9,732,800² in respect non-pecuniary damage.

26. The Government contested these claims.

27. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim.

¹ EUR 30,174

² EUR 36,728

However, it considers that the applicant must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards her 10,000 euros (EUR) under that head.

B. Costs and expenses

28. The applicant also claimed HUF 52,654¹ for the costs and expenses incurred before the domestic courts and the Court.

29. The Government contested the claim.

30. The Court considers that the sum claimed should be awarded in full (EUR 200 – the approximate equivalent of HUF 52,654).

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*
 - (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 10,000 (ten thousand euros) in respect of non-pecuniary damage and EUR 200 (two hundred euros) in respect of costs and expenses, 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 amounts 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.

¹ EUR 200

Done in English, and notified in writing on 18 July 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President