



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

SECOND SECTION

CASE OF BENCZE v. HUNGARY

(Application no. 4578/03)

JUDGMENT

STRASBOURG

31 October 2006

FINAL

12/02/2007

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 Bencze 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. TÜRMEŇ,

Mr M. UGREKHELIDZE,

Mrs A. MULARONI,

Ms D. JOČIENĚ, *judges*,

and Mrs S. DOLLĚ, *Section Registrar*,

Having deliberated in private on 10 October 2006,

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

PROCEDURE

1. The case originated in an application (no. 4578/03) 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, Mr János Bencze ("the applicant"), on 2 December 2002.

2. The Hungarian Government ("the Government") were represented by Mr L. Höltzl, Agent, Ministry of Justice and Law Enforcement.

3. On 29 June 2005 the Court decided to give notice of the application to the 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 1937 and lives in Debrecen.

5. In May 1990 a company brought an action in damages against the applicant. On 1 November 1991 the Supreme Court appointed the Hajdú-Bihar County Regional Court to hear the case. On 22 July 1992 the applicant brought a counter-claim.

6. After having held three hearings and having obtained the opinion of an expert, on 2 December 1996 the Regional Court dismissed all claims.

7. On 18 February 1998 the Supreme Court, sitting as a second-instance court, quashed the first-instance decision in its part concerning the applicant's counter-claim and remitted it to the Regional Court.

8. On 21 May 1999 the Regional Court held a hearing and appointed an expert.

9. On 25 February 2000 the Regional Court ordered the plaintiff to pay the applicant 1,300,000 Hungarian forints plus accrued interest and dismissed the remainder of his claims.

10. On appeal, on 22 May 2002 the Supreme Court upheld the first-instance decision.

THE LAW

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

11. 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...”

12. The Government contested that argument.

13. The period to be taken into consideration only began on 5 November 1992, when the recognition by Hungary of the right of individual petition under the Convention 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 point. The Court observes that the case had already been pending some two-and-a-half years by that date.

The period in question ended on 22 May 2002. It thus lasted over nine-and-a-half years for two levels of jurisdiction.

A. Admissibility

14. 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

15. 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).

16. 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).

17. 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

18. 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

19. The applicant claimed 27 million Hungarian forints¹ (HUF) in respect of pecuniary and non-pecuniary damage.

20. The Government contested the claim.

21. The Court considers that the applicant must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards him 8,000 euros (EUR) under that head.

B. Costs and expenses

22. The applicant also claimed HUF 400,000² for the costs and expenses incurred essentially before the domestic courts.

23. The Government did not express an opinion on the matter.

24. In the present case, regard being had to the information in its possession, the Court considers it reasonable to award the applicant, who was not represented by a lawyer, the sum of EUR 500 under this head.

¹ Approximately EUR. 98,900

² Approximately EUR 1,500

C. Default interest

25. 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 and EUR 500 (five 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.

Done in English, and notified in writing on 31 October 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President