



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

THIRD SECTION

CASE OF VREČKO v. SLOVENIA

(Application no. 25616/02)

JUDGMENT

STRASBOURG

21 December 2006

FINAL

21/03/2007

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 Vrečko v. Slovenia,

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

Mr C. BÎRSAN, *President*,

Mr B.M. ZUPANČIČ,

Mr V. ZAGREBELSKY,

Mrs A. GYULUMYAN,

Mr DAVID THÓR BJÖRGVINSSON,

Mrs I. ZIEMELE,

Mrs I. BERRO-LEFÈVRE, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 30 November 2006,

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

PROCEDURE

1. The case originated in an application (no. 25616/02) against the Republic of Slovenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Slovenian national, Mrs Vera Vrečko (“the applicant”), on 20 June 2002.

2. The applicant was represented by Mrs M. Nosan, a lawyer practising in Celje, Slovenia. The Slovenian Government (“the Government”) were represented by their Agent, Mr L. Bembič, State Attorney-General.

3. The applicant alleged under Article 6 § 1 of the Convention that the length of the proceedings before the domestic courts to which she was a party was excessive. In substance, she also complained about the lack of an effective domestic remedy in respect of the excessive length of the proceedings (Article 13 of the Convention).

4. On 13 September 2005 the Court decided to communicate the complaints concerning the length of the proceedings and the lack of remedies in that respect to the Government. Applying Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

5. The applicant was born in 1963 and lives in Škofja Vas.

6. On 15 October 1996 the Celje Local Court (*Okrajno sodišče v Celju*) issued a decision in the inheritance proceedings finding the applicant and her mother heiresses of the property of the applicant's deceased father.

7. On 27 January 1999 the applicant instituted non-contentious civil proceedings in the Celje Local Court against her brother S.V. seeking the division of the land which they owned jointly.

On 22 November 1999 the court held a hearing and decided to appoint two experts, one in construction engineering and the other in agriculture, to assess the value of the real estate at issue.

On 26 February and 1 March 2000 the experts submitted their opinions.

On 22 February 2000 the applicant lodged a request for an interlocutory measure.

On 19 May 2000 the court held a hearing where the applicant withdrew her request concerning the interlocutory measure. The court decided to issue a written judgment. The judgment dividing the real estate was served on the applicant on 5 July 2000.

8. On 14 July 2000 the applicant appealed. Her adversary cross-appealed.

On 28 March 2002 the Celje Higher Court (*Višje sodišče v Celju*) allowed the appeals, set aside the first-instance court's judgment and remitted the case for fresh examination. The decision was served on the applicant on 19 April 2002.

9. On 19 April, 16 September and 28 October 2002 the applicant requested the Celje Local Court to set a date for a hearing.

The hearing scheduled for 29 November 2002 was adjourned at the request of the applicant.

On 28 May 2003 the court held a hearing.

The hearing scheduled for 21 November 2003 was adjourned at the request of the applicant, because the parties retained an expert in an attempt to settle the case out of the court.

On 10 January 2005 the parties informed the court that the out-of-court settlement was not reached.

On 2 March 2003 the court held a hearing.

On 21 August 2006 the parties to the proceeding settled the case outside the court.

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 6 § 1 AND 13 OF THE CONVENTION

10. The applicant complained about the excessive length of the proceedings. She relied on 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...”

11. In substance, the applicant further complained that the remedies available for excessive legal proceedings in Slovenia were ineffective. Article 13 of the Convention 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.”

A. Admissibility

12. The Government pleaded non-exhaustion of domestic remedies.

13. The applicant contested that argument, claiming that the remedies available were not effective.

14. The Court notes that the present application is similar to the cases of *Belinger* and *Lukenda* (see *Belinger v. Slovenia* (dec.), no. 42320/98, 2 October 2001 and *Lukenda v. Slovenia*, no. 23032/02, 6 October 2005). In those cases the Court dismissed the Government's objection of non-exhaustion of domestic remedies because it found that the legal remedies at the applicant's disposal were ineffective. The Court recalls its findings in the *Lukenda* judgment that the violation of the right to a trial within a reasonable time is a systemic problem resulting from inadequate legislation and inefficiency in the administration of justice.

15. As regards the instant case, the Court finds that the Government have not submitted any convincing arguments which would require the Court to distinguish it from its established case-law.

16. The Court further notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. Nor is it inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Article 6 § 1

17. The period to be taken into consideration began on 27 January 1999, the day the applicant instituted proceedings with the Celje Local Court, and ended on 21 August 2006, the day the parties settled the case outside the court. The relevant period therefore lasted nearly seven years and seven months and three instances were involved.

18. 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).

19. The Court considers that the period of nearly one year and two months, when the parties attempted to settle the case outside the court, cannot be attributed to the first-instance court. The Court also notes that another hearing was adjourned at the request of the applicant.

20. 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 length of the proceedings was nevertheless excessive and failed to meet the “reasonable-time” requirement.

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

2. Article 13

21. The Court reiterates that Article 13 guarantees an effective remedy before a national authority for an alleged breach of the requirement under Article 6 § 1 to hear a case within a reasonable time (see *Kudla v. Poland* [GC], no. 30210/96, § 156, ECHR 2000-XI). It notes that the objections and arguments put forward by the Government have been rejected in earlier cases (see *Lukenda*, cited above) and sees no reason to reach a different conclusion in the present case.

22. Accordingly, the Court considers that in the present case there has been a violation of Article 13 on account of the lack of a remedy under domestic law whereby the applicant could have obtained a ruling upholding her right to have her case heard within a reasonable time, as set forth in Article 6 § 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

23. 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

24. The applicant claimed 10,000 euros (EUR) in respect of non-pecuniary damage.

25. The Government contested the claim.

26. The Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards her EUR 1,200 under that head.

B. Costs and expenses

27. The applicant, who was represented by a qualified lawyer in the proceedings before the Court, made no claim under this head. Accordingly, the Court considers that there is no call to award her any sum on that account.

C. Default interest

28. 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* that there has been a violation of Article 13 of the Convention;
4. *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 1,200 (one thousand two hundred euros) in respect of non-pecuniary damage, 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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 21 December 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Corneliu BÎRSAN
President