



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

SECOND SECTION

CASE OF HÉLIOPLÁN KFT v. HUNGARY

(Application no. 30077/03)

JUDGMENT

STRASBOURG

3 May 2007

FINAL

12/11/2007

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 Hélioplán Kft v. Hungary,

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

Mrs F. TULKENS, *President*,

Mr A.B. BAKA,

Mr I. CABRAL BARRETO,

Mr V. ZAGREBELSKY,

Mrs A. MULARONI,

Ms D. JOČIENÈ,

Mr D. POPOVIĆ, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 3 April 2007,

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

PROCEDURE

1. The case originated in an application (no. 30077/03) 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 business entity, Hélioplán Kft (“the applicant”), on 7 August 2003.

2. The Hungarian Government (“the Government”) were represented by Mr L. Hóltzl, Agent, Ministry of Justice and Law Enforcement. The applicant company was represented by its executive director, Mr J.T. Détár.

3. On 15 September 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, a limited liability company with its seat in Budapest, was registered in 1991.

5. On 21 September 1995 the Hungarian Red Cross brought an action in damages against the applicant.

6. After having held several hearings and obtained the opinions of experts, on 18 November 1999 the Budapest Regional Court delivered an interlocutory judgment (*közbenső ítélet*), finding that the applicant was liable for the damages sought.

7. On 15 February 2001 and 30 April 2003 respectively, the Supreme Court, sitting as a second-instance court and as a review instance, upheld the interlocutory judgment.

8. The first-instance proceedings were resumed on 19 November 2003. After several hearings, on 9 June 2004 the Regional Court established the amount of the damages payable. On 15 September 2004 it rectified that decision.

9. On 8 March 2005 the Budapest Court of Appeal, in a final judgment, increased the amount to be paid by the applicant.

THE LAW

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

10. The applicant complained that the length of the proceedings was 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...”

11. The Government contested that argument.

12. The period to be taken into consideration began on 21 September 1995 and ended on 8 March 2005. It thus lasted almost nine and a half years for three levels of jurisdiction.

A. Admissibility

13. 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

14. 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).

15. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present application (see *Frydlender*, cited above).

16. 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. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

17. The applicant, relying on Articles 6, 13, 14 and 17 of the Convention, also complained about the outcome of the proceedings.

18. In so far as the applicant's complaint may be understood to concern the assessment of the evidence and the result of the proceedings before the domestic courts, the Court reiterates that, according to Article 19 of the Convention, its duty is to ensure the observance of the engagements undertaken by the Contracting Parties to the Convention. In particular, it is not its function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention. Moreover, while Article 6 of the Convention guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and the national courts (see *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I).

19. In the present case, the Court observes that there is nothing in the case file indicating that the domestic courts lacked impartiality or that the proceedings were otherwise unfair or arbitrary. It follows that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected, pursuant to Article 35 § 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

20. 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, costs and expenses

21. The applicant made a global claim of 1.2 million euros (EUR) in respect of pecuniary and non-pecuniary damage and the costs and expenses incurred before the domestic courts and the Court.

22. The Government contested the claim.

23. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this request. However, it considers that the applicant company must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards the applicant EUR 4,800 under that head.

24. Moreover, according to the Court's case-law, an applicant is entitled to reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court finds it reasonable to award the applicant, who was not represented by a lawyer, the sum of EUR 400 under this head.

B. 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 complaint concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;
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 4,800 (four thousand eight

hundred euros) in respect of non-pecuniary damage and EUR 400 (four 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 3 May 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

F. TULKENS
President