



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

SECOND SECTION

CASE OF VÁRNAI v. HUNGARY

(Application no. 14282/04)

JUDGMENT

STRASBOURG

23 October 2007

FINAL

31/03/2008

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 Várnai 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 M. UGREKHELIDZE,

Mr V. ZAGREBELSKY,

Mrs A. MULARONI,

Mr D. POPOVIĆ, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 2 October 2007,

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

PROCEDURE

1. The case originated in an application (no. 14282/04) 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, Mr István Várnai (“the applicant”), on 9 January 2004.

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

3. On 6 October 2006 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

THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1937 and lives in Budapest.

5. On 18 June 1996 the applicant’s wife filed for divorce.

6. After several hearings, on 12 March 1999 the Budapest II/III District Court dissolved the parties’ marriage, and ordered the applicant to pay maintenance for the couple’s daughter in the amount of 386,260 Hungarian forints (HUF), which included arrears. The court allowed no suspensive effect for any appeal on the maintenance decision. The use of the couple’s flat was granted to the wife alone.

7. On appeal, the Budapest Regional Court held three hearings and obtained the opinion of a real-estate valuation expert. On 7 November 2000 the court amended the first instance decision, holding that the applicant was entitled to compensation in the amount of 2.75 million Hungarian forints, which corresponded to his share of the flat. It ordered that this liability be taken into account when the District Court, in the resumed proceedings, would eventually decide on the division of the matrimonial property.

8. On 27 April 2001 execution was ordered. On 17 October 2001 the applicant was evicted from the family flat. On 15 November 2001 his car was attached, apparently in order to recover maintenance still owed.

9. The proceedings in respect of the remainder of the parties' common property were resumed before the District Court on 9 October 2002. Between 5 May 2003 and 25 January 2007 numerous hearings took place, and the case was extended to include several further respondents.

10. According to the information provided by the parties and the elements available in the case file to date, the case has not yet ended.

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 began on 18 June 1996 and has apparently not yet ended. It has thus lasted over eleven years and three months for two levels of jurisdiction at the date of adoption of the present judgment.

A. Admissibility

14. 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

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 application (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 circumstances. Having regard to its case-law on the subject, the Court considers that 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

18. The applicant also complained under Article 13 about his eviction and the attachment of his car in 2001. However, the Court observes that the application was only introduced on 9 January 2004, i.e. more than six months after these events. It follows that this part of the application must be rejected pursuant to Article 35 §§ 1 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

19. 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

20. The applicant claimed 12 million Hungarian forints¹ in respect of pecuniary and non-pecuniary damage.

21. The Government contested the claim.

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

¹ 47,000 euros (EUR)

However, it considers that the applicant must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards him EUR 9,600 under that head.

B. Costs and expenses

23. The applicant made no claim under this head.

C. Default interest

24. 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 9,600 (nine thousand six hundred euros) in respect of non-pecuniary damage, 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 amount 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 23 October 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

F. TULKENS
President