



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

SECOND SECTION

CASE OF KOVÁCS v. HUNGARY

(Application no. 23435/03)

JUDGMENT

STRASBOURG

23 October 2007

FINAL

23/01/2008

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 Kovács 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. 23435/03) 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, Mrs Ágnes Kovács (“the applicant”), on 16 May 2003.

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

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**THE CIRCUMSTANCES OF THE CASE**

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

5. On 11 March 1996 the applicant brought an action in the Pest Central District Court, seeking the judicial review of a resolution adopted by the community of owners of the building in which her flat was located (*közgyűlési határozat*).

6. The District Court held hearings on 9 October 1997, 5 February, 10 June and 2 November 1998, 7 September 1999, 16 March, 23 May and

12 September 2000, 22 March 2001, 20 June and 1 October 2002 and 8 April 2003.

7. On 15 September 2003 the District Court appointed an expert. On 13 October 2003 it replaced him. On 29 December 2003 the new expert submitted his opinion, which was completed on 23 August 2004.

8. The District Court held further hearings on 23 March and 17 June 2004, 19 January, 27 April, 7 September, 25 November 2005, 21 April, 10 May, 23 June, 1 and 29 September, 18 December 2006 and 23 February 2007.

9. 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

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

11. The Government did not dispute that argument.

12. The period to be taken into consideration began on 11 March 1996 and apparently has not yet ended (paragraph 9 above). It has thus lasted over eleven years and six months for one level of jurisdiction at the date of adoption of the present judgment.

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 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. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

17. The applicant further complained of the fact that in Hungary there was no authority to which application could be made to complain of the excessive length of proceedings. She relied on Article 13 of the Convention.

18. The Government did not contest that argument.

19. The Court notes that this complaint is linked to the one examined above and must therefore likewise be declared admissible.

20. 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).

21. Accordingly, the Court considers that in the present case there has been a violation of Article 13 of the Convention on account of the lack of a remedy under domestic law whereby, at the time when she lodged her application, 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 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

22. 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

23. The applicant claimed 2 million Hungarian forints (HUF) [approximately 7,860 euros (EUR)] in respect of non-pecuniary damage.

24. The Government accepted the claim.

25. The Court considers that it should award the full sum requested.

B. Costs and expenses

26. The applicant also claimed HUF 82,384 [approximately EUR 324] for the costs and expenses incurred before the domestic courts and the Court.

27. The Government accepted the claim.

28. In these circumstances, the Court considers that the sum requested should also be awarded in full.

C. Default interest

29. 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 7,860 (seven thousand eight hundred and sixty euros) in respect of non-pecuniary damage and EUR 324 (three hundred and twenty-four 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.

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