



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

SECOND SECTION

CASE OF TÓTH v. HUNGARY

(Application no. 22657/04)

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 Tóth 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. 22657/04) 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, Ms Lászlóné Tóth (“the applicant”), on 21 April 2004.

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

3. On 2 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 1944 and lives in Debrecen.

5. On 4 March 1996 the applicant filed an action with the Debrecen District Court claiming compensation from the co-owners of a block of flats on whose plot of land she had been renting a commercial kiosk, because they had cut her establishment off from the water and electricity supply.

6. On 19 November 1996 District Court adopted a partial decision. On appeal, on 21 May 1997 the Hajdú-Bihar County Regional Court quashed this decision and discontinued that part of the case.

7. Subsequently, in the period up to 3 June 2004, the District Court held hearings at regular intervals; however, the proceedings were repeatedly interrupted on account of the deaths and succession formalities of certain respondents. The court also obtained the opinion of an expert.

8. On 21 July 2004 the Regional Court dismissed the applicant's motion for bias, lodged because of the extreme protraction of the proceedings. The Regional Court observed that, procedurally, the case was very complicated, because there were more than 120 parties. Moreover, because of succession formalities in the meantime and unsuccessful attempts to serve the documents in the case on the parties, the chance of holding a hearing in due and proper form had been very slim, and the proceedings had been interrupted on account of the death of one of the respondents.

9. A first-instance decision was adopted on 15 February 2007. According to the information provided by the parties and the elements available in the case file to date, the case, currently involving 137 respondents, 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 had been incompatible with the “reasonable time” requirement of Article 6 of the Convention. She also relied on Article 13 of the Convention.

The Court considers that the complaint falls to be examined under 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 the applicant's argument.

12. The period to be taken into consideration began on 4 March 1996 and apparently has not yet ended. It has thus lasted over eleven years and seven months for two levels of jurisdiction, at the date of adoption of the present judgment.

A. Admissibility

13. 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

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 overall length of the proceedings has been excessive, even taking into account the number of respondents and the succession formalities, 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

17. 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

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

19. The Government contested the claim.

20. Ruling on an equitable basis, the Court awards the applicant EUR 9,600.

B. Costs and expenses

21. The applicant made no claim under this head.

¹ 46,850 euros (EUR)

C. Default interest

22. 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 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