



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

SECOND SECTION

CASE OF PALLOS v. HUNGARY

(Application no. 44726/04)

JUDGMENT

STRASBOURG

30 October 2007

FINAL

30/01/2008

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 Pallos 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 G. BONELLO,

Mr I. CABRAL BARRETO,

Mr M. UGREKHELIDZE,

Mrs A. MULARONI,

Mr D. POPOVIĆ, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 9 October 2007,

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

PROCEDURE

1. The case originated in an application (no. 44726/04) 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 Imre Pallos (“the applicant”), on 10 November 2004.

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

3. On 23 November 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 1938 and lives in Budapest.

5. On 19 May 1997 the applicant's ex-partner filed an action against him, claiming the division of the common ownership of their property. Between 18 December 1997 and 12 June 2001, the Buda Central District Court held numerous hearings and obtained the opinion of an expert.

6. On 10 October 2002 the court gave a partial decision, holding that the plaintiff had a ¼-share in the parties' flat. This decision was served on the applicant on 27 November 2002.

7. On 13 December 2002 the applicant filed an appeal, which was dismissed on 6 January 2003 by the District Court for being out of time.

8. On 28 January 2003 the applicant filed a request for the reinstatement of the proceedings, which was dismissed on 18 March 2003 by the Budapest Regional Court for being out of time.

9. Subsequently the applicant lodged a request for the re-opening of the proceedings in their previously unsuccessful part.

10. On 10 September 2003 the District Court suspended the examination of the remainder of the case pending the outcome of the re-opening proceedings.

11. On 24 February 2004 the request for re-opening was dismissed. On 31 August 2004 the Regional Court rejected the applicant's appeal.

12. On 10 May 2005 the examination of the remainder of the case was resumed before the District Court. On the same day, the parties concluded an in-court agreement, which was approved and declared final immediately.

THE LAW

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

13. 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...”

14. The Government contested that argument.

15. The period to be taken into consideration began on 19 May 1997 and ended on 10 May 2005. It thus lasted almost eight years. However, in the Court's view, the time between 10 September 2003 and 10 May 2005, i.e. a delay of one year and eight months, during which the case was suspended pending the applicant's futile request for re-opening, cannot be imputed to the State and must therefore be deducted from the overall length. Therefore the relevant period is six years and four months, during which time one court level dealt with the merits of the applicant's case.

A. Admissibility

16. 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

17. 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).

18. 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).

19. 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

20. The applicant also complained, under Articles 6 and 13 of the Convention and Article 1 of Protocol No. 1, about the outcome of the case.

21. The Court observes that the applicant's appeal against the partial decision of 10 October 2002 was rejected as it had been lodged out of time. Moreover, as regards the remainder of his action, the Court notes that the applicant signed an in-court agreement, thus waiving his further procedural rights. In these circumstances, his complaints must be rejected either for non-exhaustion of domestic remedies or because he may not claim to be a victim of a violation of the Convention in this respect, within the meaning of Article 34 of the Convention. It follows that this part of the application must be rejected, pursuant to Article 35 §§ 1, 3 and 4 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 5.5 million Hungarian forints¹ in respect of non-pecuniary damage.

24. The Government contested the claim.

25. The Court considers that the applicant must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards him EUR 4,800 under that head.

B. Costs and expenses

26. The applicant made no claim in this respect.

C. Default interest

27. 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, 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;

¹ 21,634 euros (EUR)

(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 30 October 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

F. TULKENS
President