



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

SECOND SECTION

CASE OF KOLLÁTH v. HUNGARY

(Application no. 15509/05)

JUDGMENT

STRASBOURG

27 November 2007

FINAL

27/02/2008

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 Kolláth v. Hungary,

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

Mrs F. TULKENS, *President*,

Mr R. TÜRMEŒ,

Mr A.B. BAKA,

Mr V. ZAGREBELSKY,

Mrs A. MULARONI,

Mrs D. JOČIENÈ,

Mr D. POPOVIĆ, *judges*,

and Mrs S. DOLLÈ, *Section Registrar*,

Having deliberated in private on 6 November 2007,

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

PROCEDURE

1. The case originated in an application (no. 15509/05) 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 József Kolláth (“the applicant”), on 20 March 2005.

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

3. On 3 April 2007 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 1952 and lives in Dunakeszi.

5. In the context of a supply contract, on 23 December 1994 *Kiss és Kolláth Bt.* – a limited partnership managed by the applicant, of which he is also a shareholder – filed an action against another company claiming a certain amount of money.

6. After seven hearings, on 19 September 1997 the Pest Central District Court dismissed the applicant's claim. The second-instance court quashed this decision on 11 February 1999.

7. In the resumed proceedings, on 26 March 2003 the District Court held several hearings, obtained the opinion of an expert and again dismissed the applicant's claims.

8. On appeal, on 23 September 2004 the Budapest Regional Court reversed this decision and awarded the applicant 4.4 million Hungarian forints (HUF), plus accrued statutory interest. The court dismissed the applicant's other claims for interest. It relied on documentary evidence, the opinion of the expert and the testimony of witnesses.

THE LAW

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

9. 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 fair ... hearing within a reasonable time by [a] ... tribunal...”

10. The Government contested that argument.

11. The period to be taken into consideration began on 23 December 1994 and ended on 23 September 2004. It thus lasted nine years and nine months for two levels of jurisdiction.

A. Admissibility

12. 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

13. 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).

14. 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).

15. 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 finds 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

16. Without relying on any particular provision of the Convention, the applicant also complained about the unfairness and the outcome of the proceedings.

17. 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 § 1 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. These are primarily matters for regulation by national law and the national courts (see *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I).

18. In the present case, the Court considers that there is nothing in the case file disclosing any appearance that the courts lacked impartiality or that the proceedings were otherwise unfair. 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

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, in general terms, pecuniary and non-pecuniary damage. He submitted that, because of the protraction of the proceedings, he suffered a loss of 10,000 euros (EUR) in legal fees payable to two law firms and an indeterminate amount of money in connection with various expenses. Moreover, in order to maintain the solvency of his enterprise, he had to take out a loan, the interest on which amounted to HUF 1 million¹. Finally, due to the ongoing litigation, he also lost a business opportunity with a potential profit of 25,000 US dollars².

21. The Government did not express an opinion on the matter.

22. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it considers that the applicant must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards him EUR 6,400 under that head.

B. Costs and expenses

23. The applicant made no separate costs claim.

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;

¹ EUR 3,983

² EUR 17,576

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 6,400 (six thousand four 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 27 November 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

F. TULKENS
President