



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

SECOND SECTION

CASE OF RÓZSA v. HUNGARY

(Application no. 22671/04)

JUDGMENT

STRASBOURG

29 January 2008

FINAL

29/04/2008

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 Rózsa v. Hungary,

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

Françoise Tulkens, *President*,

András Baka,

Ireneu Cabral Barreto,

Vladimiro Zagrebelsky,

Antonella Mularoni,

Danutė Jočienė,

Dragoljub Popović, *judges*,

Sally Dollé, *Section Registrar*,

Having deliberated in private on 8 January 2008,

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

PROCEDURE

1. The case originated in an application (no. 22671/04) 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 Márta Rózsa (“the applicant”), on 6 April 2004.

2. The Hungarian Government (“the Government”) were represented by Mr L. Hóltzl, 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

4. The applicant was born in 1952 and lives in Budapest.

5. On 2 November 1990 the applicant brought, on behalf of her minor daughter, a paternity claim against the child's purported father, a man of German nationality and residence. She also sought the payment of maintenance.

6. After several hearings, on 23 November 1992 the Budapest XVIII/XIX District Court requested, as a measure of international legal assistance, the German authorities to carry out a blood group test on the respondent. The result was received by the court on 25 May 1994. On 9 January 1995 a medical expert opinion based on these results was submitted to the court.

7. On 18 April 1995 the court requested the German authorities to perform a chromosome test on the respondent. Despite repeated reminders, the requested samples did not arrive until 24 February 1999. On 7 April 1999 a further medical opinion based on the results was submitted to the court.

8. On 18 May 2000 the District Court found for the plaintiff, established the respondent's paternity and ordered him to pay maintenance.

9. On 19 December 2001 the Budapest Regional Court upheld this judgment in a final decision. Subsequently, administrative proceedings were set in motion in order to establish the daughter's family name.

10. As the father proved unwilling to comply voluntarily with the court decisions, on 16 December 2002 the applicant requested the Pest Central District Court to initiate enforcement proceedings against him.

11. On 3 June 2003 the case file reached the Ministry of Justice for further action.

12. On 8 December 2003 the Department of Private International Law within the Ministry of Justice informed the applicant that the competent German authority ("*Bundesverwaltungsamt*") had ordered the father to settle his debts.

13. A first payment was effected by the father in April 2004. It appears that the payments were stopped in August 2006 because the daughter had reached 18 years of age in September 2006, and a dispute then arose as to whether the obligation to pay maintenance continued because the daughter was still a full-time student.

THE LAW

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

14. 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..."

15. The Government contested that argument.

16. The period to be taken into consideration only began on 5 November 1992, when the recognition by Hungary of the right of individual petition took effect. However, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time. The Court observes that the proceedings had already been pending for two years by that date.

17. The period in question ended on 8 December 2003, after which date Hungary could no longer influence the outcome of the procedure. It thus lasted over eleven years and one month. However, in the Court's view, the periods between 23 November 1992 and 25 May 1994 and, moreover, between 18 April 1995 and 24 February 1999 – totalling five years and four months – also cannot be imputed to the Hungarian authorities, since these delays corresponded to the protracted German measures of legal assistance whose acceleration was not in the Hungarian authorities' power. The relevant period is therefore five years and nine months for two levels of jurisdiction, as well as the enforcement phase.

A. Admissibility

18. 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

19. 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). In this latter connection, the Court notes that cases relating to civil status require special diligence in view of the possible consequences which the excessive length of proceedings may have, notably on the enjoyment of the right to respect for family life (*Laino v. Italy* [GC], no. 3158/96, § 18, ECHR 1999-I).

20. 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).

21. 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. The Court notes in particular a one-year period of total inactivity between 7 April 1999 and 18 May 2000. 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. 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 15,000 euros (EUR) in respect of pecuniary and non-pecuniary damage.

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

25. 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 her EUR 1,500 under that head.

B. Costs and expenses

26. The applicant made no claim under this head.

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 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 1,500 (one thousand five 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 29 January 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President