



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

SECOND SECTION

CASE OF GLÖCKLER AND OTHERS v. HUNGARY

(Application no. 17628/04)

JUDGMENT

STRASBOURG

5 February 2008

FINAL

05/05/2008

This judgment may be subject to editorial revision.

In the case of Glöckler and Others v. Hungary,

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

Françoise Tulkens, *President*,

András Baka,

Riza Türmen,

Mindia Ugrekhelidze,

Vladimiro Zagrebelsky,

Danutė Jočienė,

Dragoljub Popović, *judges*,

Françoise Elens-Passos, *Deputy Section Registrar*,

Having deliberated in private on 15 January 2008,

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

PROCEDURE

1. The case originated in an application (no. 17628/04) 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 four Hungarian nationals, Mr and Mrs Zoltán Glöckler and Mr and Mrs Zoltán Weich (“the applicants”), on 12 March 2004.

2. The applicants were represented by Mr Cs. Tímár, a lawyer practising in Pécs. 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

4. The applicants were born in 1962, 1966, 1956 and 1954 respectively and live in Pécs.

5. On 22 September 1993 Mr and Mrs Glöckler brought an action against Mrs and Mr Zoltán Weich and the latter’s brother, Mr László Weich. In the context of a real estate dispute, the plaintiffs sought the invalidation of a donation contract executed between the respondents.

6. On 7 December 1993 Mr László Weich died. The proceedings were subsequently interrupted. The deceased respondent’s successor, Mr Zoltán

Weich, was only identified by the parties in a submission made to the court on 8 September 1995.

7. After three hearings, on 13 May 1996 the Pécs District Court found for the plaintiffs.

8. On 5 March 1997 the Baranya County Regional Court quashed this decision and remitted the case to the first-instance court.

9. In the resumed proceedings, on 14 April 1999 the District Court again found for the plaintiffs, after having held several hearings and obtained the opinion of an expert.

10. On appeal, on 21 September 1999 the Regional Court reversed the first-instance decision and dismissed the plaintiffs' action.

11. On 27 March 2001 the Supreme Court quashed this decision and remitted the case to the second-instance court.

12. In the resumed second-instance proceedings, on 11 September 2001 the Regional Court upheld the decision of 14 April 1999. This decision was upheld by the Supreme Court's review bench on 13 January 2004.

THE LAW

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

13. The applicants 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 22 September 1993 and ended on 13 January 2004. It thus lasted over ten years and three months. However, the Court considers that the period of one year and nine months (from 7 December 1993 until 8 September 1995), which corresponded to the identification by the parties of the deceased respondent's successor, cannot be imputed to the authorities and must be deducted from the overall length. The relevant period is therefore eight years and six months for three levels of jurisdiction.

A. Admissibility

16. 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

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 applicants and the relevant authorities and what was at stake for the applicants 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 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. APPLICATION OF ARTICLE 41 OF THE CONVENTION

20. 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

21. Each of the applicants claimed 2 million Hungarian forints (HUF)¹ in respect of non-pecuniary damage.

22. The Government contested the claim.

23. The Court considers that the applicants must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards each of them EUR 3,200 under that head.

¹ 7,942 euros (EUR)

B. Costs and expenses

24. The applicants claimed, jointly, HUF 500,000¹ for the costs and expenses incurred before the Court.

25. The Government contested the claim.

26. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. The Court notes that the applicants' costs claim has not been substantiated by any relevant documents and must therefore be rejected.

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 each of the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 3,200 (three thousand two hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into Hungarian forints at the rate applicable at the date of settlement;
 - (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;
4. *Dismisses* the remainder of the applicants' claim for just satisfaction.

¹ EUR 1,986

Done in English, and notified in writing on 5 February 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise Elens-Passos
Deputy Registrar

Françoise Tulkens
President