



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

SECOND SECTION

CASE OF SASSNÉ SÁRI v. HUNGARY

(Application no. 1056/05)

JUDGMENT

STRASBOURG

4 March 2008

FINAL

04/06/2008

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 Sassné Sári v. Hungary,

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

Françoise Tulkens, *President*,

Antonella Mularoni,

Ireneu Cabral Barreto,

Vladimiro Zagrebelsky,

Dragoljub Popović,

András Sajó,

Nona Tsotsoria, *judges*,

and Sally Dollé, *Section Registrar*,

Having deliberated in private on 12 February 2008,

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

PROCEDURE

1. The case originated in an application (no. 1056/05) 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, Ms Krisztina Sassné Sári (“the applicant”), on 19 November 2004.

2. The applicant was represented by Mr Cs. Mester, a lawyer practising in Budapest. The Hungarian Government (“the Government”) were represented by Mr L. Hölzl, Agent, Ministry of Justice and Law Enforcement.

3. On 3 May 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 1968 and lives in Bag.

5. In 2000 the applicant divorced her husband. The ex-spouses had an agreement about the placement of their son with the applicant. However, on 20 August 2002 the ex-husband took the son with him on a trip and did not return him to the applicant. Despite several enforcement fines imposed on the father, the applicant’s custody was restored only on 27 March 2006.

6. Meanwhile, on 11 October 2002 the father introduced an action requesting custody of the child.

7. On 20 April 2005 the District Court, after having held several hearings and obtained the opinion of an expert, adopted a decision, changing the child's placement and granting custody to the father. On appeal, on 1 September 2005 the Regional Court quashed this decision.

8. In the resumed proceedings, on 23 June 2006 the District Court, after having held several hearings and obtained the opinion of an expert, again found for the father.

9. On 8 February 2007 the Regional Court upheld this decision and ordered the applicant to surrender the child to the father. This decision was served on the applicant's lawyer on 12 March 2007.

THE LAW

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

10. Relying on Article 6 of the Convention and Article 5 of Protocol No. 7, the applicant complained that the length of the proceedings had been excessive. The Court considers that this complaint falls to be examined under Article 6 § 1 of the Convention, which reads as relevant:

“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 that argument.

12. The period to be taken into consideration began on 11 October 2002 and ended on 12 March 2007. It thus lasted 4 years and 5 months for two levels of jurisdiction.

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). In cases relating to child custody, special diligence is required in view of the possible consequences which the excessive length of proceedings may have, and, therefore, such issues should be dealt with speedily (cf. *Hokkanen v. Finland*, judgment of 23 September 1994, Series A no. 299-A, pp. 25-26, §§ 69-72).

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 notes 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. 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 20,000 euros (EUR) in respect of non-pecuniary damage.

19. The Government contested the claim.

20. The Court considers that the applicant must have sustained some non-pecuniary damage. Ruling on an equitable basis and in view of what was at stake for her in the dispute complained of, it awards her EUR 2,800.

B. Costs and expenses

21. The applicant made no claim under this head.

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 2,800 (two 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;
 - (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 4 March 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President