



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

SECOND SECTION

CASE OF PEÁK v. HUNGARY

(Application no. 20280/04)

JUDGMENT

STRASBOURG

1 July 2008

FINAL

01/12/2008

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 Peák v. Hungary,

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

Françoise Tulkens, *President*,

Ireneu Cabral Barreto,

Vladimiro Zagrebelsky,

Danutė Jočienė,

András Sajó,

Nona Tsotsoria,

Işıl Karakaş, *judges*,

and Sally Dollé, *Section Registrar*,

Having deliberated in private on 10 June 2008,

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

PROCEDURE

1. The case originated in an application (no. 20280/04) 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 István Peák on 6 April 2004.

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

3. On 3 September 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 applications at the same time.

THE FACTS

4. The applicant was born in 1956 and lives in Balatonakarattya.

1. The proceedings concerning the applicant’s patent rights

5. On 26 October 1995 the applicant brought an action before the Budapest Regional Court against the Military Engineering Institute and six individuals. He sought to have it established that the defendants had violated his patent rights in that they had utilised without licence one of his inventions when creating a military defence tool for armoured vehicles. The applicant was represented by his patent agent.

6. On 17 April 1997 the Regional Court dismissed the applicant's claim. In May 1997, the applicant had his patent cancelled, being of the view that it followed from the decision of the Regional Court that it could only be reviewed if he first abandoned his patent protecting the invention. Subsequently, he appealed against the Regional Court's decision, maintaining that the defendants had used his invention without licence.

7. On 6 January 1999 the appellate bench of the Supreme Court quashed the first-instance decision and remitted the case to the Regional Court.

8. In the resumed proceedings the defendants filed a preparatory paper with the Regional Court on 9 November 1999.

9. On 7 April 2000 the Regional Court, establishing that the defendants' invention had been based on a different technical solution than that of the applicant and, that, therefore, the former had not illegally used the latter's invention, again dismissed the action. The applicant appealed.

10. In 2003 the appellate bench of the Supreme Court appointed a technical expert, the Expert Committee of the Hungarian Patent Office, which submitted its opinion to the court on 2 February 2004. On 8 March 2004 the applicant submitted a counter-opinion prepared by other experts.

11. The appellate bench of the Supreme Court upheld the first-instance decision on 31 March 2004. The courts relied on documentary evidence, the opinion of the technical expert and the parties' testimony. The applicant lodged a petition for review with the Supreme Court.

12. On 15 October 2004 the review bench of the Supreme Court declared the applicant's petition inadmissible, without examining the merits, since it was incompatible *ratione materiae* with the relevant provisions of the Code of Civil Procedure.

13. In April 2004 the applicant lodged a criminal complaint with the Budapest Prosecutor's Office, alleging that the documents submitted by the defendants during the proceedings had been forged. On 18 April 2005, after a remittal, the Prosecutor's Office terminated the investigation in the absence of any crime, which decision was upheld by the Chief Prosecutor's Office in June 2005.

2. Civil proceedings against the Budapest Regional Court

14. In 2004 the applicant brought an official liability action against the Budapest Regional Court before the Pest County Regional Court, alleging that the Budapest Regional Court's wrong decision had forced him to abandon his patent rights in 1997.

15. On 10 October 2005 the Pest County Regional Court dismissed the applicant's claim. It found that the applicant had erred in accepting a non-final decision — against which he appealed — as a binding legal opinion and, therefore, the Budapest Regional Court was not responsible for his alleged loss. The applicant appealed.

16. On 13 April 2006 the Budapest Court of Appeal upheld the first-instance decision. The applicant lodged a petition for review with the Supreme Court. On 9 November 2006 the Supreme Court dismissed the applicant's petition. The courts relied on documentary evidence and the parties' testimony.

THE LAW

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

17. The applicant complained that the length of the proceedings concerning the patent rights (see paragraphs 5-13 above) had been incompatible with the "reasonable time" requirement, laid down in 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..."

18. The Government contested that argument.

19. The period to be taken into consideration began on 26 October 1995 and ended on 15 October 2004, i.e. it lasted for nine years. From the period taken into consideration, 6 months — the length of the review proceedings before the Supreme Court — are imputable to the applicant, since this futile motion initiated by him was declared inadmissible *ratione materiae* with the relevant provisions of the Code of Civil Procedure and not examined on the merits. The relevant period thus lasted 8 years and 6 months for two levels of jurisdiction, including a remittal.

A. Admissibility

20. 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

21. 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).

22. 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).

23. 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.

24. There has accordingly been a breach of Article 6 § 1.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

25. The Court observes that the applicant complained under Article 6 § 1 of the Convention about the outcome and the unfairness of both proceedings. The Court notes that these complaints are essentially of a fourth-instance nature: there is no indication in the case file that the domestic courts lacked impartiality or that the proceedings were otherwise unfair or arbitrary. 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.

26. The Court further observes that the applicant complained under Article 1 of Protocol No. 1 to the Convention about the violation of his property rights. In this connection he also relied on Article 13 of the Convention, without substantiating or developing further this complaint. The Court considers that the mere refusal of the applicant’s claims in judicial proceedings which disclose no sign of arbitrariness does not raise an issue under Article 1 of Protocol No. 1 to the Convention or Article 13 of the Convention. 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.

27. Lastly, the Court notes that the applicant complained, without relying on any particular provisions of the Convention, that his criminal accusations did not lead to any conviction. The Court observes that the Convention or its Protocols do not guarantee any right as such to press criminal charges against third persons or have them convicted. It follows that this part of the application must be rejected as being incompatible *ratione materiae* with the provisions of the Convention, pursuant to Article 35 §§ 3 and 4.

28. It follows that these remaining complaints must be declared inadmissible pursuant to Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

29. 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

30. The applicant claimed 35.8 billion Hungarian forints in respect of pecuniary and non-pecuniary damage.

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

32. The Court does not discern any casual link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, on the equitable basis, it awards the applicant EUR 5,600 for the non-pecuniary damages.

B. Costs and expenses

33. The applicant did not put forward any claim under this head.

C. Default interest

34. 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 concerning the patent rights 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 according to Article 44 § 2 of the Convention, EUR 5,600 (five thousand six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary

damage, which sum is 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 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 1 July 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President