



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

SECOND SECTION

CASE OF SZTERGÁR v. HUNGARY

(Application no. 16407/05)

JUDGMENT

STRASBOURG

22 July 2008

FINAL

22/10/2008

This judgment may be subject to editorial revision.

In the case of Sztergár 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 1 July 2008,

Having regard to the partial decision of 15 January 2008,

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

PROCEDURE

1. The case originated in an application (no. 16407/05) 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 Gusztáv Sztergár (“the applicant”), on 15 April 2005.

2. The applicant was represented by Ms E. Slezák, 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 15 January 2008 the Court declared the application partly inadmissible and decided to communicate the complaint concerning the length of the liquidation proceedings to the Government. It also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3).

THE FACTS

THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1954 and lives in Pécs.

5. The applicant's employer went into liquidation on 8 October 1991. On 14 December 1991 the applicant was dismissed from his job and he received 174,135 Hungarian forints (approximately 690 Euros) in severance pay. The applicant's further claims against his former employer were channelled into

the ongoing liquidation procedure. Ultimately, the review bench of the Supreme Court awarded him HUF 124,480 (approximately EUR 494) in compensation in 1997, which, as far as it can be determined from the case file, was never paid to him. Because of his abovementioned pending and registered claim (*hitelezői igény*), he remained a “creditor” and, therefore, a party to the proceedings.

6. On 23 January 2006 the Baranya County Regional Court deleted the applicant's former employer from the Company Register. In April 2006 the Pécs Court of Appeal ordered the stay of the proceedings until the legal successor of the debtor joined the proceedings. The applicant appealed against this decision.

7. In October 2006 the Supreme Court quashed the order and remitted the case to the Court of Appeal. In January 2007 the Court of Appeal identified the legal successor of the debtor and continued the liquidation proceedings which are still pending.

THE LAW

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

8. 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...”

9. The Government contested that argument.

10. The period to be taken into consideration began only 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 since the case had already been pending for almost a year by then. According to the information provided by the parties and the elements in the case file to date, the period in question has not yet ended. It thus has already lasted fifteen years and seven months for two levels of jurisdiction.

A. Admissibility

11. 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

12. 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).

13. 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).

14. 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

15. 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

16. The applicant claimed 69,937 euros (EUR) in respect of pecuniary and non-pecuniary damage.

17. The Government contested these claims.

18. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, on an equitable basis, it awards the applicant EUR 16,000 for the non-pecuniary damages.

B. Costs and expenses

19. The applicant also claimed EUR 4,462 for the costs and expenses incurred before the domestic courts or those incurred before the Court.

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

21. 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. In the instant case, the applicant, who was represented by a lawyer, submitted an itemised list of her own expenses (postal, administrative and travel costs, etc.). Regard being had to the information in its possession and the above criteria, the Court finds it reasonable to award the sum of EUR 1,000 covering costs under all heads.

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 remainder of the application, concerning the excessive length of the proceedings, 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, the following amounts, to be converted into Hungarian forints at the rate applicable at the date of settlement:
 - (i) EUR 16,000 (sixteen thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 1,000 (one thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
 - (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 applicant's claim for just satisfaction.

Done in English, and notified in writing on 22 July 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President