



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

SECOND SECTION

CASE OF SIPOS v. HUNGARY

(Application no. 7060/05)

JUDGMENT

STRASBOURG

7 October 2008

FINAL

07/01/2009

This judgment may be subject to editorial revision.

In the case of Sipos 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 Françoise Elens-Passos, *Deputy Section Registrar*,

Having deliberated in private on 16 September 2008,

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

PROCEDURE

1. The case originated in an application (no. 7060/05) 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 Márta Sipos (“the applicant”), on 11 February 2005.

2. The applicant was represented by Ms É. Snyozik, a lawyer practising in Debrecen. The Hungarian Government (“the Government”) were represented by Mr L. Höltzl, Agent, Ministry of Justice and Law Enforcement.

3. On 9 January 2008 the President of the Second Section decided to give notice of the application to the Government. It was 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 1957 and lives in Hajdúsámson.

5. On 2 May 1989 the applicant filed for divorce. She also requested the division of the matrimonial property.

6. After having pronounced the parties’ divorce in a partial decision, having held several hearings and obtained the opinions of experts, on 9 November 1994 the Debrecen District Court adopted a decision on the

property. This was reversed by the Hajdú-Bihar County Regional Court on 20 June 1996. On 24 June 1997 the Supreme Court's review bench quashed this decision and remitted the case to the second-instance court.

7. In the resumed second-instance proceedings, the Regional Court held a hearing and quashed the District Court's decision on 27 October 2000.

8. In the resumed first-instance proceedings, on 5 June 2001 the District Court adopted a new decision concerning the property. This was reversed by the Regional Court on 23 November 2001.

9. On 10 November 2004 a three-judge panel of the Supreme Court's review bench examined the respondent's petition for review on the merits. It held that the taking of evidence in the case had been comprehensive and without a fault and that the applicant's petition did not disclose a breach of the relevant law. It therefore upheld the Regional Court's judgment.

THE LAW

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

10. The applicant complained that the proceedings had lasted an unreasonably long time. She relied on Articles 6 § 1 and 13 of the Convention. The Court considers that the application falls to be examined from the perspective of the "reasonable time" requirement of Article 6 § 1 of the Convention alone, 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..."

11. The Government contested that argument.

12. 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 that stage. The Court observes that the proceedings had already been pending for three and a half years by then.

The period in question ended on 10 November 2004. It thus lasted over twelve years for three levels of jurisdiction.

A. Admissibility

13. The Government submitted that the applicant's petition for review did not qualify as an effective remedy in the circumstances and that therefore the six-month time-limit started to run from the Regional Court's

2001 decision. In their view, the application was thus introduced out of time.

14. The Court observes that the competent bench of the Supreme Court examined the merits of the applicant's petition and upheld the Regional Court's judgment holding that there was no appearance of a breach of the relevant law in the case. It does not discern any element which would call into question the effectiveness of this remedy in the circumstances. It follows that the Government's objection cannot be sustained. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. Moreover, it is not inadmissible on any other grounds. The application must therefore be declared admissible.

B. Merits

15. 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).

16. 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).

17. 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

18. 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

19. The applicant claimed 8 million Hungarian forints¹ in respect of pecuniary and non-pecuniary damage.

20. The Government contested these claims.

21. 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 9,600 under that head.

B. Costs and expenses

22. The applicant made no costs claim.

C. Default interest

23. 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 9,600 (nine thousand six 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;

¹ 34,700 euros (EUR)

(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 7 October 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise Elens-Passos
Deputy Registrar

Françoise Tulkens
President