



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

SECOND SECTION

CASE OF MRÚZ v. HUNGARY

(Application no. 3261/05)

JUDGMENT

STRASBOURG

14 October 2008

FINAL

06/04/2009

This judgment may be subject to editorial revision.

In the case of Mrúz 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 23 September 2008,

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

PROCEDURE

1. The case originated in an application (no. 3261/05) 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 Sándorné Mrúz (“the applicant”), on 10 December 2004.

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

3. On 5 December 2007 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 Budapest.

5. On 26 July 1991 the applicant brought an action against an insurance company seeking compensation for injuries she had suffered in a road traffic accident. The dispute essentially concerned the amount of compensation payable.

6. After having obtained two expert opinions and held numerous hearings, on 5 November 1997 the Budapest Regional Court gave judgment. On 9 March 2000 the Supreme Court quashed this decision.

7. In the resumed proceedings, on 5 February 2002 the Budapest Regional Court awarded the applicant 8.2 million Hungarian forints (HUF) in compensation in addition to a monthly allowance.

8. On 28 April 2004 the Supreme Court's appellate bench amended this decision, reducing the award. This judgment was final and served on 28 June 2004.

9. On 14 September 2004 the Supreme Court rejected the applicant's request for rectification of the judgment holding that her allegations related to the assessment of facts rather than any clerical error.

10. In a preliminary examination under section 273 of the Code of Civil Procedure, on 1 October 2004 the Supreme Court's review bench refused to deal with the merits of the applicant's petition for review. In essence, it relied on section 270 § 2 of the Code of Civil Procedure, as in force during the relevant period, according to which a review of the substantive unlawfulness of final decisions was only admissible if a review was considered necessary from the perspective of harmonising or developing the application of the law. This decision was served on 3 November 2004.

11. In 2005 the applicant filed another action, introducing further compensation claims. On 31 May 2007 the Budapest Regional Court awarded her HUF 19.6 million. The Budapest Court of Appeal upheld this judgment. Its decision was served on the applicant on 21 February 2008.

THE LAW

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

12. The applicant complained that the length of the first proceedings (see paragraphs 5 to 10 above) 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..."

13. The Government contested that argument.

14. 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 the time. The Court observes that the proceedings had already been pending by then for over 15 months.

The period in question ended at the earliest on 28 June 2004 (see paragraph 8 above). It thus lasted almost eleven years and eight months for three levels of jurisdiction.

A. Admissibility

15. 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

16. 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 connection with the latter point, special diligence is necessary in disputes concerning the determination of compensation for victims of road accidents (see, *inter alia*, *Silva Pontes v. Portugal*, judgment of 23 March 1994, Series A no. 286-A, p. 15, § 39).

17. 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).

18. 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. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

19. The applicant also complained about the length of the second proceedings (see paragraph 11 above). The Court observes that this case lasted approximately three years for two levels of jurisdiction. This delay cannot be considered unreasonable. 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.

20. The applicant further submitted that the rectification and review decisions of 14 September and 1 October 2004 amounted to a breach of Article 13.

Concerning the rejection of the request for rectification, the Court finds nothing in the case file indicating any appearance that the Supreme Court lacked impartiality or that the decision was taken arbitrarily. This complaint is therefore also to be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

As regards the refusal of a review, the Court observes that the Supreme Court found that the applicant's case did not raise a point of law of general public importance, which was the gateway requirement for leave to be granted. It also notes that where a supreme court refuses to accept a case on the basis that the legal grounds for such a case are not made out, very limited reasoning may satisfy the requirements of Article 6 of the Convention (see, *mutatis mutandis*, *Nerva and Others v. the United Kingdom* (dec.), no. 42295/98, 11 July 2000). This principle extends to the Hungarian Supreme Court's decisions on applications for leave to appeal (*Jaczkó v. Hungary*, no. 40109/03, § 29, 18 July 2006). In the absence of any appearance of arbitrariness, this complaint is manifestly ill-founded within the meaning of Article 35 § 3, and must be rejected pursuant to Article 35 § 4 of the Convention.

21. Finally, the applicant complained that the Supreme Court's reduction of her award had constituted a deprivation of property in breach of Article 1 of Protocol No. 1. However, the Court is satisfied that this complaint does not disclose any appearance of a violation of the applicant's Convention rights given that no arbitrariness is discernable in the case, which concerned a dispute between private parties. Accordingly, this complaint is likewise to be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

22. 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

23. The applicant claimed 140,000 euros (EUR) in respect of pecuniary damage and EUR 28,000 in respect of non-pecuniary damage.

24. The Government contested these claims.

25. 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 8,000 under that head.

B. Costs and expenses

26. The applicant also claimed EUR 8,000 for the costs and expenses incurred before the domestic courts.

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

28. 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 present case, regard being had to the information in its possession and the above criteria, the Court rejects the claim for costs and expenses in the domestic proceedings.

C. Default interest

29. 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 first proceedings 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 in accordance with Article 44 § 2 of the Convention, EUR 8,000 (eight thousand 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 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 14 October 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President