



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

SECOND SECTION

CASE OF HIDVÉGI v. HUNGARY

(Application no. 5482/05)

JUDGMENT

STRASBOURG

14 October 2008

FINAL

14/01/2009

This judgment may be subject to editorial revision.

In the case of Hidvégi 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 23 September 2008,

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

PROCEDURE

1. The case originated in an application (no. 5482/05) 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 László Endre Hidvégi (“the applicant”), on 4 February 2005.

2. The applicant was represented by Mr G. Kutas, 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 21 November 2007 the President of the Second Section 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 1955 and lives in Budapest.

5. In April 1997 the applicant bought a flat from a private individual, S.M. The seller stipulated that she had the right to buy back the property until 30 July 1997. However, she was not able to exercise this right because of the lack of sufficient means.

6. In September 1997 the Land Registry registered the applicant's property rights on the flat. Subsequently, the applicant requested S.M. to let him have possession. Since S.M. was reluctant to leave the flat, the applicant requested the Gödöllő District Court to order the execution of the purchase contract – which had been concluded by a notary public (*közjegyzői okirat*) and, therefore, was executable as a final court judgment. The District Court issued the order on 10 November 1997.

7. Subsequently, S.M. brought an action against the applicant before the Gödöllő District Court, requesting the court to establish the invalidity of the purchase contract and to order the termination of its execution. In April 1998 the District Court dismissed the plaintiff's action. On appeal, in October 1998 the Pest County Regional Court upheld the first-instance decision.

8. S.M. requested that the case be reopened. The Gödöllő District Court suspended the execution of the purchase contract. The applicant appealed. The Pest County Regional Court reversed the first-instance decision and ordered the continuation of the execution in April 1999. Subsequently, S.M.'s request to reopen the case was dismissed. In May 1999 S.M. again requested the suspension of the execution, but the District Court dismissed her request.

9. In the meantime, the applicant was charged with the forgery of the contract in question. In view of the ongoing criminal proceedings, the Gödöllő District Court suspended the execution of the contract on 15 July 1999. In May 2003 the Budapest Regional Court, acting as a second-instance court, acquitted the applicant. On 12 June 2004 the applicant requested the continuation of the execution. On 13 July 2004 the District Court accepted the applicant's claim. The Regional Court upheld the first-instance decision on 21 October 2004.

10. According to the information available in the case file, the execution proceedings are still pending.

THE LAW

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

11. 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...”

12. The Government contested that argument.

13. The period to be taken into consideration began on 10 November 1997 and has not yet ended, according to the information available in the case file. It has thus lasted over ten years and ten months for two levels of jurisdiction.

A. Admissibility

14. 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

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.

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

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

19. The applicant further complained that the length of the proceedings had infringed his right to the peaceful enjoyment of his possessions, as guaranteed by Article 1 of Protocol No. 1, which provides as follow:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in

accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

20. The Court notes that this complaint is linked to that under Article 6 § 1 of the Convention which has already been examined above and must therefore, likewise, be declared admissible. However, having regard to its finding under Article 6 § 1 (see paragraph 18 above), the Court considers that it is not necessary to examine separately whether there has also been a violation of Article 1 of Protocol No. 1 (see *Zanghi v. Italy*, judgment of 19 February 1991, Series A no. 194-C, p. 47, § 23).

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

21. The Court observes that the applicant complained under Article 14 of the Convention, read in conjunction with Article 1 of Protocol No. 1

, without substantiating or developing further this complaint. The Court finds, however, that the applicant’s submissions do not disclose any appearance that he suffered discrimination in breach 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.

IV. 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 15,000 euros (EUR) in respect of pecuniary and 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, on an equitable basis, it awards the applicant EUR 8,000 for non-pecuniary damages.

B. Costs and expenses

26. The applicant also claimed EUR 4,500 for the costs and expenses incurred before the domestic courts and for those incurred before the Court.

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. The Court notes that the applicant's costs claim has not been substantiated by any relevant documents and must therefore be rejected.

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 complaints concerning the excessive length of the proceedings and a violation of property 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* that there is no need to examine separately the complaint under Article 1 of Protocol No. 1 to the Convention;
4. *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;
5. *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