



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

SECOND SECTION

CASE OF BÉLA SZABÓ v. HUNGARY

(Application no. 37470/06)

JUDGMENT

STRASBOURG

9 December 2008

FINAL

09/03/2009

This judgment may be subject to editorial revision.

In the case of Béla Szabó 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,

Dragoljub Popović,

András Sajó,

Nona Tsotsoria, *judges*,

and Sally Dollé, *Section Registrar*,

Having deliberated in private on 18 November 2008,

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

PROCEDURE

1. The case originated in an application (no. 37470/06) 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 Béla Szabó (“the applicant”), on 5 June 2006.

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

3. On 14 February 2008 the Court decided to give notice of the application 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 lives in Salgótarján.

5. On 29 September 1999 the applicant’s employer brought an action against him, alleging a deficient inventory.

6. On 15 May 2001 the Salgótarján Labour Court found for the plaintiff, after having held several hearings.

7. On 25 October 2001 the Nógrád County Regional Court upheld this decision. On 27 November 2002 the Supreme Court quashed these judgments and remitted the case to the Labour Court.

8. In the resumed proceedings, on 27 January 2005 the Labour Court again found for the plaintiff, after having held several hearings and obtained the opinions of experts.

9. On 26 May 2005 the Regional Court amended this decision.

10. On 15 September 2005 the applicant's petition for review reached the Supreme Court. Although section 273(4) of the Code of Civil Procedure prescribes a 60-day time-limit for the preliminary examination of a petition, it only took place on 12 April 2006. On that date a single judge decided, in a 6-page decision which was reasoned in detail, that the applicant's petition did not disclose a breach of the relevant law, in particular the rules concerning the interpretation of expert opinions. Although the decision was given in a procedure nominally as to the admissibility of the petition, in fact it dealt with the merits of the applicant's case. The Supreme Court's order was served on him on 29 May 2006.

11. The applicant filed a complaint alleging that, because of the non-observance of the 60-day time-limit, the single judge had no longer been entitled to reject his petition and a hearing should have been held.

12. On 6 July 2006 the Head of the Supreme Court's Labour-Law *Collegium* rejected the applicant's complaint. She explained that the delay was due to the Supreme Court's backlog of cases and that section 273(4) could not be interpreted to the effect that the delay had entailed an obligation on the Supreme Court's part to hold a hearing.

THE LAW

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

13. 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..."

14. The Government contested that argument.

A. Admissibility

15. The Government submitted that final domestic decision in the case had been given by the Regional Court on 26 May 2005 and that the

application had been introduced only on 5 June 2006, i.e. outside the six-month time-limit prescribed in Article 35 § 1 of the Convention. The applicant's petition for review, rejected by the Supreme Court in the admissibility phase, could not be regarded as an effective remedy and did not, in their view, influence the running of the time-limit.

The applicant contested that view.

16. The Court observes that, for the purpose of its examination of the reasonableness of the length of proceedings, it must take into account all instances which could have had an influence on the outcome of the case (see *Maria de Lurdes Rosa Marques and Others v. Portugal* (dec.), no. 48187/99, 7 June 2001). In this connection, it finds that the decision of the Supreme Court, served on the applicant on 29 May 2006, and which dealt with the merits of the applicant's petition for review and adopted a reasoned decision in the matter, constituted the final domestic decision in the present application. The Government's objection must therefore be rejected. Moreover, the Court considers 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

17. The period to be taken into consideration began on 29 September 1999 and ended on 29 May 2006. It thus lasted six years and eight months for three levels of jurisdiction.

18. 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).

19. 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).

20. 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

21. The applicant also complained under Article 13 that, because of the delayed processing of his case, it should have been examined by the Supreme Court at a hearing, rather than rejected by a single judge in so-called preliminary proceedings.

22. Assuming the applicability of Article 13, the Court recalls at the outset that the effectiveness of a remedy within the meaning of Article 13 does not depend on the certainty of a favourable outcome for the applicant (*Sürmeli v. Germany* [GC], no. 75529/01, § 98, ECHR 2006-....). It notes the explanation given by the Head of the Supreme Court's Labour-Law *Collegium* (see paragraph 12 above) according to which the impugned delay was due to the Supreme Court's backlog of cases and that section 273(4), on which the applicant's had based his complaint, could not be interpreted to the effect that the delay experienced had entailed an obligation on the Supreme Court's part to hold a hearing. In these circumstances – and in the absence of any appearance of arbitrariness – the Court is satisfied that this complaint of the applicant was based on a misunderstanding of the domestic law. It follows that it is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected, pursuant to Article 35 § 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

23. 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

24. The applicant claimed 6,000 euros (EUR) in respect of pecuniary and non-pecuniary damage.

25. The Government contested the claim.

26. 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 him EUR 1,200 under that head.

B. Costs and expenses

27. The applicant also claimed EUR 1,000 for the costs and expenses incurred before the Court.

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

29. 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

30. 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 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 1,200 (one thousand two 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;
 - (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 9 December 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President