



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

SECOND SECTION

CASE OF EÖSÖLY v. HUNGARY

(Application no. 32069/05)

JUDGMENT

STRASBOURG

24 February 2009

FINAL

24/05/2009

This judgment may be subject to editorial revision.

In the case of Eösöly 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 3 February 2009,

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

PROCEDURE

1. The case originated in an application (no. 32069/05) 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 József Eösöly (“the applicant”), on 30 August 2005.

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 25 June 2008 the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application as its admissibility.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1958 and lives in Hévízgyörk.

5. The facts of the case, as submitted by the parties, may be summarised as follows.

6. In 1996 the applicant brought an action in compensation against his former employer before the Pest County Labour Court. In March 2003 the Labour Court partly found for him. The applicant appealed. On 3 November 2004 the Pest County Regional Court upheld the first-instance

decision. The courts relied on documentary evidence, the opinion of an auditor and testimonies of witnesses and the parties.

7. The applicant lodged a petition for review with the Supreme Court. On 9 February 2005 the Supreme Court dismissed the applicant's petition. This decision was served on him on 25 April 2005.

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, laid down in 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 in 1996 and ended on 9 February 2005. It thus lasted nine years for three levels of jurisdiction.

A. Admissibility

11. The Government argued that the application had been submitted outside the six-month time-limit laid down in Article 35 § 1 of the Convention. They observed that the final decision in the case was given by the Regional Court on 3 November 2004. However, the application was only lodged on 30 August 2005. The applicant's petition for a review by the Supreme Court could not, in their view, be regarded as an effective remedy in the circumstances, since it did not meet the statutory requirements and was rejected at the admissibility stage. It did not, therefore, interrupt the running of the six-month time-limit.

12. The applicant contested this view. He maintained that the Supreme Court, although it had dismissed his petition at the admissibility stage, had in fact dealt with the merits of the case.

13. The Court observes that the Supreme Court did not reject the applicant's petition as being wholly futile; instead, it adopted a reasoned decision in the matter. In these circumstances, it is satisfied that the order delivered on 9 February 2005 (and served on the applicant on 25 April 2005) constituted the final domestic decision in the case and that the six-month rule has been complied with (see *Tsomtsos and Others v. Greece*, 15 November 1996, § 32, *Reports of Judgments and Decisions* 1996-V and *Csánics v. Hungary*, no. 12188/06, § 24, 16 December 2008).

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

14. 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).

15. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

16. 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

17. The Court observes that the applicant also complained under Articles 6 and 13 of the Convention about the outcome and the unfairness of the proceedings. However, the Court considers that these complaints are essentially of a fourth-instance nature: there is no indication in the case file that the domestic courts lacked impartiality or that the proceedings were otherwise unfair or arbitrary.

18. 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.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

19. 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

20. The applicant claimed 16,000 euros (EUR) in respect of pecuniary and non-pecuniary damage.

21. The Government contested these claims.

22. 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 4,800.

B. Costs and expenses

23. The applicant also claimed EUR 1,440 for the costs and expenses incurred before the Court. He filed an itemised statement of the hours billable by his lawyer. According to his statement, this figure corresponded to twelve hours of work (consultation with client, three hours; studying the file, two hours; preparation of submissions, seven hours) spent by his lawyer on the case charged at an hourly rate of EUR 100 plus VAT.

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

25. 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 above criteria, the Court considers it reasonable to award the sum of EUR 1,440 for the proceedings before the Court.

C. Default interest

26. 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 according to 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 4,800 (four thousand eight hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 1,440 (one thousand four hundred and forty 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 24 February 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President