



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

SECOND SECTION

CASE OF CZIFRA v. HUNGARY

(Application no. 13290/05)

JUDGMENT

STRASBOURG

24 March 2009

FINAL

06/07/2009

This judgment may be subject to editorial revision.

In the case of Czifra 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 March 2009,

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

PROCEDURE

1. The case originated in an application (no. 13290/05) 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 Czifra, on 2 March 2005.

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

3. On 10 April 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 1953 and lives in Kunfehértó.

A. Liquidation proceedings

5. On 28 March 1997 the applicant, a subcontractor of Telekábel Ltd. (“the Company”), initiated the liquidation of the Company before the Bács-Kiskun County Regional Court, since the Company had become insolvent and not paid his invoices.

6. On 10 September 1997 the Regional Court established the insolvency of the Company and ordered its liquidation. This decision gained binding force on 25 June 1998. The liquidation proceedings eventually involved thirty-one creditors in total.

7. The debtor’s interim balance sheet was established on 1 March 2000.

8. After adjudicating several complaints, on 21 October 2004 the Bács-Kiskun County Regional Court established the termination of the liquidation proceedings and dissolved the Company. This decision was served on the applicant on 20 January 2005.

B. Civil proceedings against the Company

9. On 15 July 1997 the Company signed an agreement with one of its main customers to pay the latter a specific amount of money. It was stipulated that, in exchange, the customer would desist from any further claims.

10. On 2 December 1999 the applicant and another creditor brought an action against the Company and the above-mentioned customer before the Bács-Kiskun County Regional Court, requesting the court to rule the respondents’ agreement invalid.

11. After a remittal, the Szeged Court of Appeal finally found in part for the plaintiffs on 27 February 2004. It further ordered the applicant to pay part of the court fees. This decision was served on the applicant on 7 April 2004.

12. On 15 November 2004 the Bács-Kiskun County Duties Office requested the applicant to pay the court fees. On the applicant’s request, the enforcement of this decision was suspended until 31 October 2006 by the Duties Office on 7 October 2005. On 22 March 2007 the applicant’s salary was attached by the Tax Authority. The applicant lodged a demurrer of execution against the decision, which was dismissed. The enforcement proceedings are still pending.

C. First set of proceedings against the applicant due to a tax debt

13. On 25 June 2002 the Tax Authority seized part of the payment which the applicant, in tax debt, had received as a result of his claim against the Company.

14. On 5 April 2003 the Tax Authority, observing that the applicant still had some tax debts, ordered enforcement on his real estate. He did not lodge a demurrer of execution against this decision.

15. On 13 May 2003 the Kiskunhalas Notary, noting that the applicant had not paid his tax debts, withdrew his private entrepreneur's licence. He did not lodge an administrative appeal against this decision.

16. On 23 March 2004 the Tax Authority also seized the applicant's movable property. On 26 May 2004 part of the default interest on the tax debt was cancelled for reasons of equity.

17. The applicant having finally paid the debt, the Tax Authority discontinued the enforcement proceedings on 11 November 2004.

18. On 15 September 2005 the Tax Authority nevertheless requested the applicant to pay the default interest on the tax debt. On 25 May 2006 the applicant's request to have this latter debt annulled was rejected by the Tax Authority. This decision was upheld by the National Tax Authority on 18 July 2006. The applicant did not seek judicial review of that decision.

D. Second set of proceedings against the applicant due to a local tax debt

19. On 10 August 2005 the Kiskunhalas Notary notified the applicant that he owed some local tax. On 20 December 2005 the Notary warned the applicant that he should pay additional amounts of local tax. The applicant lodged a complaint against these impositions with the Bács-Kiskun County Administrative Office.

20. On 27 February 2006 the Administrative Office rejected the complaint.

21. On 31 March 2006 the applicant finally paid the debt. However, the Notary obliged him to pay default interest.

22. Since he did not do so, the Kunfehértó Notary informed the applicant on 10 July 2006 that part of his pension would be attached in order to secure the payment of the default interest.

23. The applicant did not lodge a demurrer of execution against the enforcement measures.

THE LAW

24. The applicant complained that the length of the proceedings described in Chapter A above had been incompatible with the "reasonable time" requirement of Article 6 § 1 of the Convention. The Government contested that argument.

25. The period to be taken into consideration began on 28 March 1997 and ended on 20 January 2005. It thus lasted almost seven years and ten months for one level of jurisdiction.

26. 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.

27. 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 v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

28. 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.

29. The applicant also complained under Article 6 § 1 about the outcome and unfairness of the litigation and court fee enforcement described in Chapter B, as well as about that of both sets of tax proceedings outlined in Chapters C and D above.

30. As to the proceedings in Chapter B, the Court observes that the final decision in the civil case was given by the Szeged Court of Appeal on 27 February 2004. However, the application was introduced only on 2 March 2005, i.e. more than six months later. Moreover, the enforcement of the court fees is still pending, which renders the related complaint premature. It follows that these complaints are inadmissible, respectively for non-respect of the six-month time-limit and non-exhaustion of domestic remedies, pursuant to Article 35 §§ 1 and 4 of the Convention.

31. Concerning the cases in Chapters C and D, the Court notes that the applicant failed to lodge a demurrer of execution against the respective decisions, to appeal against the withdrawal of his licence or to seek judicial review. These complaints must therefore be rejected for non-exhaustion of domestic remedies, pursuant to Article 35 §§ 1 and 4 of the Convention.

32. Under Article 41 of the Convention, the applicant claimed 18.8 million Hungarian forints (HUF)¹ in respect of pecuniary damage and HUF 13 million² in respect of non-pecuniary damage. The Government contested these claims.

33. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim.

¹ 65,115 euros (EUR)

² EUR 44,960

However, it considers that the applicant must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards him EUR 6,400 under that head.

34. The applicant also claimed for costs and expenses incurred before the Court HUF 166,666¹ in respect of the fee of his lawyer (this figure, subject to VAT at 20%, has been stipulated in a contract submitted by the applicant) and HUF 100,000² in respect of clerical costs. The Government did not express an opinion on the matter.

35. 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 documents in its possession and the above criteria, the Court considers that the sums claimed, the equivalent of which is approximately EUR 920, should be awarded in full.

36. 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 liquidation 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, the following amounts, to be converted into Hungarian forints at the rate applicable at the date of settlement:
 - (i) EUR 6,400 (six thousand four hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 920 (nine hundred and twenty 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;

¹ EUR 575

² EUR 345

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 24 March 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President