



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

1959 · 50 · 2009

FOURTH SECTION

CASE OF HUDEČKOVÁ v. SLOVAKIA

(Application no. 16933/03)

JUDGMENT

STRASBOURG

2 June 2009

FINAL

02/09/2009

This judgment may be subject to editorial revision.

In the case of Hudečková v. Slovakia,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Nicolas Bratza, *President*,

Lech Garlicki,

Giovanni Bonello,

Ljiljana Mijović,

Ján Šikuta,

Mihai Poalelungi,

Nebojša Vučinić, *judges*,

and Fatoş Aracı, *Deputy Section Registrar*,

Having deliberated in private on 12 May 2009,

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

PROCEDURE

1. The case originated in an application (no. 16933/03) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Slovak national, Mrs Anna Hudečková (“the applicant”), on 10 May 2003.

2. The applicant was represented by Mrs E. Šimová, a lawyer practising in Košice. The Slovak Government (“the Government”) were represented by Mrs M. Pirošíková, their Agent.

3. On 7 May 2006 the President of the Fourth 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 1949 and lives in Jaklovce.

A. Proceedings before the ordinary courts

1. Inheritance proceedings (file no. D 745/95)

5. On 14 June 1995 the Spišská Nová Ves District Court started inheritance proceedings in respect of the estate of a relative of the applicant. At that time the applicant's mother was one of the heirs of the testator.

6. After the official appointed by the court had gathered all the information required, the District Court gave a decision on the distribution of the estate on 18 September 1996. Both parties appealed.

7. The Košice Regional Court quashed the District Court's decision on 28 July 1997.

8. On 23 June 1998 the file was transmitted to the notary appointed to act as the court's officer in the case.

9. A different notary was appointed on 8 October 1999.

10. On 26 January 2000 the applicant's mother died. She bequeathed her share in the inheritance to the applicant.

11. Five hearings were scheduled before 22 January 2002, when a different notary was appointed to act as the court's officer in the case.

12. The applicant challenged all the judges of the District Court on the ground that the length of the proceedings had been excessive. On 30 September 2002 the Regional Court decided not to exclude the District Court judges.

13. On 10 December 2002 the officer of the District Court drew up a list of the estate. The District Court decided on its distribution on the same day.

14. On 21 December 2002 the applicant appealed. The file was transferred to the Regional Court on 21 February 2003.

15. On 31 March 2003 the Regional Court upheld the judgment on the merits and quashed the part concerning the costs.

16. On 30 May 2003 the District Court gave a decision on the costs of the inheritance proceedings and the notary's fees.

17. On 27 August 2003 the Regional Court quashed the decision to the extent that it concerned the notary's fees.

18. On 23 December 2003 the District Court decided on the notary's fees. The decision became final on 18 February 2004.

19. On 23 February 2004 the District Court asked the applicant to settle the court fees, which had not been fully paid.

20. The applicant complied with the request on 12 May 2004.

2. Proceedings concerning the applicant's claim of 1996 (file no. 4 C 720/96) and the claim of 1999 (file no. 7 C 768/99).

21. On 5 August 1996 the applicant lodged an action with the Spišská Nová Ves District Court, claiming a sum of money (the equivalent of approximately 2,500 euros (EUR)) from the heirs in the above inheritance

proceedings. The applicant had spent that sum on the reconstruction of the house which belonged to her relative's estate. The proceedings were given the file number 4 C 720/96.

22. On 5 August 1999 the applicant and her husband sought legal recognition that the sum equivalent to approximately EUR 2,500 which they had invested in the house of the applicant's relative did not form a part of the testator's estate. That claim was attributed file number 7 C 768/99 until 20 December 2000, when the District Court decided that it should be joined to the proceedings concerning the applicant's action of 1996.

23. On 26 June 2003 the District Court discontinued the proceedings in respect of the action of 1996 because the applicant had withdrawn her claim. It further granted leave to the applicant to amend her claim of 1999. The District Court decided to deal with the newly submitted claim in a separate set of proceedings (see below).

3. Proceedings concerning the claim of 2003 (file no. 10 C 40/03)

24. As indicated above, on 26 June 2003 the District Court permitted a modification of the claim of 1999. By the new action the applicant sought that the sum of money which she and her husband had invested in the real estate concerned be declared a part of their matrimonial property. The District Court decided to deal with the new claim in a separate set of proceedings (file number 10 C 40/03).

25. On 13 December 2004 the District Court dismissed the amended action.

26. On 27 April 2006 the Regional Court upheld the first-instance judgment.

B. Constitutional proceedings

27. The applicant complained before the Constitutional Court that the District Court had violated her right to a hearing within a reasonable time in three sets of proceedings (file nos. D 745/95, 4 C 720/96 and 7 C 768/99).

28. On 2 April 2003 the Constitutional Court found a violation of Article 6 § 1 and its constitutional equivalent in those sets of proceedings.

29. As regards the inheritance proceedings (D 745/95), the Constitutional Court found that the case was not complex. The parties had partially contributed to the length of the proceedings in that they had challenged court officers three times. The other two sets of proceedings were not complex (although a preliminary question had needed to be determined in the inheritance proceedings), and the applicant's conduct had not contributed to their length.

30. The Constitutional Court awarded the applicant the overall amount of 70,000 Slovakian korunas (SKK – the equivalent of approximately EUR 1,700 at that time) as just satisfaction. It also ordered the District Court to

proceed with the applicant's cases, to the extent that the proceedings were still pending before it, without further delay. It ordered the District Court to reimburse the costs the applicant had incurred in the constitutional proceedings in the amount she claimed.

THE LAW

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

31. The applicant complained that the length of the proceedings in the above cases had been incompatible with the "reasonable time" requirement laid down in Article 6 § 1 of the Convention, which in its relevant part 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..."

A. Admissibility

1. Inheritance proceedings (file no. D 745/95) and proceedings concerning the applicant's claims of 1996 (file no. 4 C 720/96) and 1999 (file no. 7 C 768/99).

32. The Government argued that, in respect of the proceedings examined by the Constitutional Court (D 745/95, 4 C 720/96 and 7 C 768/99), the applicant could no longer claim to be a victim of a violation of her right to a hearing within a reasonable time. They argued that the Constitutional Court had expressly acknowledged such a violation, had ordered the District Court to act and that the amount of just satisfaction awarded had not been manifestly inadequate in the circumstances of the cases. As to the period subsequent to the Constitutional Court's judgment, the applicant had not exhausted domestic remedies by lodging a fresh complaint with the Constitutional Court.

33. The applicant disagreed and argued that the amount of just satisfaction granted by the Constitutional Court had not been sufficient.

34. The Court observes that the inheritance proceedings (no. D 745/95) started on 14 June 1995 and ended on 18 February 2004, during which period the Regional Court dealt with the case for approximately one year. Having regard to the fact that the applicant had directed her constitutional complaint exclusively against the District Court's proceedings, the Court

will only take into consideration the period during which the case was pending before the District Court.

35. The period under the Court's consideration in respect of proceedings nos. 4 C 720/96 and 7 C 768/99 started on 5 August 1996, when the applicant lodged her action. On 5 August 1999 she filed another similar action, which was dealt with separately until 20 December 2000 when the District Court joined this claim to the proceedings on the action of 1996. These proceedings ended on 26 June 2003, when the applicant withdrew her claim of 1996 and modified the claim of 1999. After that time the applicant's new claim was dealt with under a new file number (see part (2) below).

36. Meanwhile, on 2 April 2003 the Constitutional Court awarded the applicant the equivalent of EUR 1,700 as just satisfaction in respect of the proceedings pending before the District Court under file nos. D 745/95, 4 C 720/96 and 7 C 768/99. As regards the periods of the proceedings examined by the Constitutional Court, this amount cannot be considered to have provided adequate and sufficient redress to the applicant in view of the Court's established case-law (see *Scordino v. Italy (no. 1)* [GC], no. 36813/97, §§ 178-213, ECHR 2006-... , and *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 65-107, ECHR 2006-...).

37. In view of the above, in respect of the periods of the District Court's proceedings examined by the Constitutional Court, the Court concludes that the applicant did not lose her status as a victim within the meaning of Article 34 of the Convention (see, for example, *Eliáš v. Slovakia*, no. 21326/07, § 24, 18 March 2008). Accordingly, she was not required to again resort to the complaint under Article 127 of the Constitution in respect of the District Court's proceedings nos. D 745/95, 4 C 720/96 and 7 C 768/99 after the Constitutional Court's judgment of 2 April 2003 (see *Becová v. Slovakia* (dec.), no. 23788/06, 18 September 2007).

38. The Court notes that this part of 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.

2. Proceedings concerning the claim of 2003 (file no. 10 C 40/03)

39. The Court observes that the applicant did not complain about the length of these proceedings before the Constitutional Court by means of a complaint under Article 127 of the Constitution.

40. It follows that this part of the application must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

B. Merits

41. 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).

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

43. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court considers that the length of the three sets of proceedings pending before the District Court under the file numbers D 745/95, 4 C 720/96 and 7 C 768/99 was excessive and failed to meet the “reasonable time” requirement.

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

44. 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

45. The applicant claimed EUR 1,627 in respect of pecuniary damage and EUR 20,000 in respect of non-pecuniary damage.

46. The Government contested these claims.

47. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects that claim. On the other hand, it considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, and having regard to its case-law on the subject and to the fact that the applicant obtained partial redress in the proceedings before the Constitutional Court, it awards her EUR 4,200 under that head.

B. Costs and expenses

48. The applicant claimed in total the amount of EUR 2,778. That sum included the costs of her legal representation before the Constitutional Court (EUR 332) and before the Court (EUR 2,281), translation costs (EUR 136) and postal expenses (EUR 29).

49. The Government objected, pointing out that reimbursement of the applicant's costs in the constitutional proceedings had been ordered by the Constitutional Court. As regards the costs of her representation before the Court, they noted that only the amount of EUR 1,022 had been supported by invoices. They did not contest the claims in respect of the costs of translation and postal expenses.

50. 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 are reasonable as to quantum. In the present case, regard being had to the information in its possession, the above criteria and the fact that the costs of the applicant's legal representation before the Constitutional Court were reimbursed at the domestic level, the Court rejects the claim for costs and expenses incurred in the constitutional proceedings and considers it reasonable to award the applicant, who was represented by a lawyer, the sum of EUR 1,187 for the costs and expenses incurred before the Court.

C. Default interest

51. 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 pending under the file numbers D 745/95, 4 C 720/96 and 7 C 768/99 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:

- (i) EUR 4,200 (four thousand two hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
- (ii) EUR 1,187 (one thousand one hundred and eighty-seven 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 2 June 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Nicolas Bratza
President