



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

1959 · 50 · 2009

FOURTH SECTION

CASE OF GRAUSOVÁ v. SLOVAKIA

(Application no. 14757/06)

JUDGMENT

STRASBOURG

2 June 2009

FINAL

02/09/2009

This judgment may be subject to editorial revision.

In the case of Grausová v. Slovakia,

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

Nicolas Bratza, *President*,
Giovanni Bonello,
David Thór Björgvinsson,
Ján Šikuta,
Päivi Hirvelä,
Ledi Bianku,
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. 14757/06) 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, Ms Viera Grausová (“the applicant”), on 4 April 2006.

2. The Slovak Government (“the Government”) were represented by their Agent, Mrs M. Pirošíková.

3. On 23 May 2008 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 1953 and lives in Košice.

5. In 1997 the applicant’s parents, by way of a donation contract, transferred to the applicant their ownership title to a garage.

6. On 13 March 2002 the applicant was sued by her parents. They asked the Košice I District Court to order the applicant to return the above gift.

7. The applicant’s request for an interim measure was dismissed on 10 December 2002.

8. Several hearings took place between 19 February 2003 and 29 July 2005.

9. On 3 November 2005 the Constitutional Court found a violation of the applicant's right under Article 48 § 2 of the Constitution to a hearing without unjustified delay and her right under Article 6 § 1 of the Convention to a hearing within a reasonable time. It held that the case was not complex and the applicant's conduct had not contributed to the length of the proceedings. The period of inactivity totalling one year was imputable to the District Court.

10. The Constitutional Court awarded the applicant 10,000 Slovakian korunas (SKK) (the equivalent of 256 euros at that time) as just satisfaction in respect of non-pecuniary damage. It also ordered the District Court to avoid any further delay in the proceedings and to reimburse the applicant's costs.

11. A hearing took place on 4 November 2005. Another hearing, scheduled for 2 February 2006, was adjourned.

12. On 3 July 2006 the District Court dismissed the action. The judgment was served on the applicant on 10 October 2006 and became final and enforceable on 26 October 2006.

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, 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..."

A. Admissibility

14. The Government did not contest that argument but expressed the view that 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 and the amount of just satisfaction awarded had not been manifestly inadequate in the circumstances of the case. The proceedings ended shortly after the Constitutional Court had ordered the District Court to proceed with the case.

15. The applicant disagreed.

16. The Court observes that the proceedings started on 13 March 2002 and ended on 26 October 2006. At the time of the Constitutional Court's decision they lasted three years and eight months at one level of jurisdiction.

17. The Court notes that, in respect of that period, the Constitutional Court awarded the applicant the equivalent of EUR 256 as just satisfaction in respect of non-pecuniary damage. 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-...). In view of the above, it concludes that the applicant did not lose her status as a victim within the meaning of Article 34 of the Convention (see, for example, *Bič v. Slovakia*, no. 23865/03, § 37, 4 November 2008).

18. 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

19. 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).

20. 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).

21. Having examined all the material submitted to it and having regard to its case-law on the subject, the Court concurs with the view expressed by the Constitutional Court and considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement. It finds no further substantial inactivity on the part of the District Court in the period subsequent to the Constitutional Court's judgment.

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

II. 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 EUR 2,988 in respect of non-pecuniary damage.

24. The Government contested the claim.

25. The Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, and having regard to the fact that the applicant obtained partial redress at domestic level, it awards her EUR 1,100 under that head.

B. Costs and expenses

26. The applicant also claimed EUR 34 for costs and expenses.

27. The Government left the matter to the Court’s discretion, noting that the applicant had not supported that claim by necessary evidence.

28. The Court considers it reasonable to award the full sum claimed.

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 application admissible;
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 1,100 (one thousand one hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 34 (thirty-four 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