



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

1959 · 50 · 2009

SECOND SECTION

CASE OF SINKÓ v. HUNGARY

(Application no. 3925/05)

JUDGMENT

STRASBOURG

2 June 2009

FINAL

02/09/2009

This judgment may be subject to editorial revision.

In the case of Sinkó 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 Françoise Elens-Passos, *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. 3925/05) 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, Mrs Károlyné Sinkó (“the applicant”), on 29 December 2004.

2. The applicant was represented by Mr P. Gál, 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 27 February 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).

4. On 11 March 2009 Mr István Sinkó and Mr János Frühling, the applicant’s sons, informed the Registry that the applicant had died in 2007. They stated that they were the applicant’s statutory heirs and that they wished to pursue the case.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1914 and lived in Budapest.

6. On 12 October 1999 the applicant brought an action in compensation against the Hungarian State and a commercial bank before the Pest Central District Court. This court held several hearings; however, in the period between 17 May 2001 and 4 September 2003, only one hearing took place. The District Court partly found for the applicant on 14 January 2004.

7. Dissatisfied with the award, the applicant appealed. The Budapest Regional Court dismissed her appeal on 17 December 2004. On 26 July 2005 the Supreme Court dismissed her petition for review.

THE LAW

8. The applicant complained that the length of the proceedings had been incompatible with the “reasonable time” requirement of Article 6 § 1 of the Convention. The Government contested that argument.

9. The Court accepts that the applicant’s sons are entitled to take her place (see, for example, *Vocaturo v. Italy*, 24 May 1991, Series A no. 206-C, § 2; *X. v. France*, 31 March 1992, Series A no. 234-C, § 26; *G. v. Italy*, 27 February 1992, Series A no. 228-F, § 2; *Pandolfelli and Palumbo v. Italy*, 27 February 1992, Series A no. 231-B, § 2). However, the examination of the admissibility and merits of the case must be limited to the question whether or not the complaint as originally submitted by Mrs Sinkó, who remains the applicant, discloses a violation of the Convention.

10. The Court observes that the period to be taken into consideration lasted over five years and nine months for three levels of jurisdiction. In view of such lengthy proceedings and the fact that the District Court held only one hearing in the period between 17 May 2001 and 4 September 2003, the application must be declared admissible.

11. 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 e.g. *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). 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.

12. Relying on Article 41 of the Convention, the applicant had originally claimed 3,200 euros (EUR) in respect of non-pecuniary damage. The Government contested the claim which was maintained by the applicant’s heirs.

13. The Court considers that the applicant's sons are entitled to compensation for the non-pecuniary damage which their mother must have sustained. Ruling on an equitable basis, it awards them, jointly, EUR 1,200 under that head. Moreover, it 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's heirs, jointly, 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 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.

Françoise Elens-Passos
Deputy Registrar

Françoise Tulkens
President