



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

1959 · 50 · 2009

SECOND SECTION

CASE OF MÁRIA MENYHÁRT v. HUNGARY

(Application no. 33552/05)

JUDGMENT

STRASBOURG

27 October 2009

FINAL

27/01/2010

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Mária Menyhárt v. Hungary,

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

Françoise Tulkens, *President*,

Vladimiro Zagrebelsky,

Danutė Jočienė,

Dragoljub Popović,

András Sajó,

Nona Tsotsoria,

Kristina Pardalos, *judges*,

and Françoise Elens-Passos, *Deputy Section Registrar*,

Having deliberated in private on 6 October 2009,

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

PROCEDURE

1. The case originated in an application (no. 33552/05) 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, Ms Mária Menyhárt (“the applicant”), on 12 September 2005.

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

3. On 30 March 2009 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 1942 and lives in Ajka.

5. In November 1993 the applicant's husband brought an action against her before the Ajka District Court, asking the court to dissolve their marriage and divide the matrimonial property. After holding several hearings and obtaining the opinion of an expert, the District Court dissolved, in a partial decision, the applicant's marriage on 6 February 1997.

6. At the applicant's request, the case was suspended between 29 January 1999 and 1 August 2000 pending a related dispute. After holding numerous further hearings and obtaining the opinions of additional experts, the court divided the matrimonial property on 8 June 2004.

7. On appeal, on 12 May 2005 the Veszprém County Regional Court partly changed the first-instance decision.

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 observes that the period to be taken into consideration lasted over eleven and a half years. Of this time, one and a half years corresponding to the suspension of the case requested by the applicant must be deducted. However, the remaining period still exceeds ten years for two levels of jurisdiction. In view of such lengthy proceedings, this complaint must be declared admissible.

10. 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, among many other authorities, *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 considers 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.

11. Relying on Article 41 of the Convention, the applicant claimed an unspecified amount in respect of pecuniary damage and 9,100 euros (EUR) in respect of non-pecuniary damage. The Government contested these claims. In the absence of a quantified claim, the Court cannot examine the claim for pecuniary damage; it therefore rejects this claim. However, it considers that the applicant must have sustained some non-pecuniary damage and awards her, on the basis of equity, EUR 8,000.

12. The applicant also claimed EUR 500 for the costs and expenses incurred before the Court, which amount corresponds to various clerical costs, translation fees and those of her lawyer, supported by documents. The Government did not express an opinion on the matter. 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. The Court

considers it reasonable to award the applicant the entirety of the sum claimed, i.e. EUR 500.

13. 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,
 - (i) EUR 8,000 (eight thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage,
 - (ii) EUR 500 (five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses,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 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 27 October 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise Elens-Passos
Deputy Registrar

Françoise Tulkens
President