



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

1959 · 50 · 2009

SECOND SECTION

CASE OF WOLFGÉHER AND TURULA v. HUNGARY

(Application no. 36739/05)

JUDGMENT

STRASBOURG

3 November 2009

FINAL

03/02/2010

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 Wolfgéher and Turula 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 Sally Dollé, *Section Registrar*,

Having deliberated in private on 13 October 2009,

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

PROCEDURE

1. The case originated in an application (no. 36739/05) 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 three Hungarian nationals, Mr and Mrs György Wolfgéher and Mrs Kálmán Turula (“the applicants”), on 7 October 2005.

2. The applicants were represented by Ms I. Probstner, a lawyer practising in Budapest. The Hungarian Government (“the Government”) were represented by Mr L. Hölzl, Agent, Ministry of Justice and Law Enforcement.

3. On 1 April 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 applicants were born in 1957, 1959 and 1927, respectively, and live in Budapest. The first and second applicants are a married couple, and the third applicant is the second applicant's mother. They live together in the house which was the object of the litigation outlined below.

5. On 10 September 1992 two individuals brought an action against the applicants before the Budapest XX/XXI/XXIII District Court, requesting it

to establish the invalidity of a contract and to order the applicants to vacate the house in which they lived.

6. Subsequently, several hearings took place and the opinion of an expert was obtained. Between 4 February 1997 and 20 May 1999 the case was suspended pending a related procedure before the land registry.

7. After several further hearings, on 30 June 2004 the District Court dismissed the action. On appeal, the Budapest Regional Court upheld the essence of the first-instance decision on 13 April 2005.

THE LAW

8. The applicants 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 began only on 5 November 1992, when the recognition by Hungary of the right of individual petition took effect. However, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time. The Court notes that the case had been pending for about two months on that date. The period in question ended on 13 April 2005. It thus lasted over twelve years and five months. Of this time, two years and three months corresponding to the suspension of the proceedings, apparently justified and thus not imputable to the State, 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 *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 applicants claimed, jointly, 8,000 euros (EUR) in respect of pecuniary damage and EUR 30,000 in respect of non-pecuniary damage. (They made no claim for costs and expenses.) The Government contested the damages claim. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it considers that

the applicants must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards them, jointly, EUR 8,000.

12. 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 applicants, jointly, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 8,000 (eight thousand 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 applicants' claim for just satisfaction.

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

Sally Dollé
Registrar

Françoise Tulkens
President