



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

1959 · 50 · 2009

FOURTH SECTION

CASE OF HORSTI v. FINLAND

(Application no. 39509/08)

JUDGMENT

STRASBOURG

10 November 2009

FINAL

10/02/2010

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 Horsti v. Finland,

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 Lawrence Early, *Section Registrar*,

Having deliberated in private on 20 October 2009,

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

PROCEDURE

1. The case originated in an application (no. 39509/08) against the Republic of Finland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Finnish national, Mr Anssi Horsti (“the applicant”), on 11 August 2008.

2. The Finnish Government (“the Government”) were represented by their Agent, Mr Arto Kosonen of the Ministry for Foreign Affairs.

3. On 5 March 2009 the President of the Fourth Section decided to give notice of the application to the Government as concerned the length of the proceedings. 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 1940 and lives in Tallinn.

The first set of proceedings

5. The applicant's father died in 1989. On 16 March 2001 a lawyer carried out the distribution of the estate, the applicant and his brother being its beneficiaries.

6. On 17 September 2001 the applicant lodged a civil action against his brother with the Helsinki District Court (*käräjäoikeus, tingsrätt*) contesting the distribution.

7. On 8 October 2001 the court requested the applicant to supplement his application for a summons to be issued. It urged the applicant to give further particulars of his claims and the circumstances on which they were based and to indicate the evidence that he wished to present and what each piece of evidence was intended to prove, as required by Chapter 5, Article 2 of the Code of Judicial Procedure (*oikeudenkäymiskaari, rättegångsbalken*, 4/1734 with later amendments). The court further referred to Chapter 5, Article 6 of the Code, noting that in case of failure to comply with the request, the court could declare the action inadmissible or dismiss it.

8. The applicant filed two submissions, dated 22 October 2001 and 2 April 2002.

9. On 7 March 2003 the court sent the applicant another request, finding his submissions to be so incomplete and unclear that the defendant would not be able to respond to his action in an appropriate manner.

10. The applicant filed two submissions, dated 31 March and 17 April 2003.

11. On 23 July 2003 the defendant filed with the court his response to the action. He requested that it be declared inadmissible or dismissed stating, *inter alia*, that he was unable to respond to the claims due to the obscurity of the applicant's submissions.

12. On 8 August 2003 the court requested the applicant to submit a detailed statement in reply to the defendant's pleading. It further urged the applicant to consider employing the services of a lawyer.

13. The applicant filed five submissions between 18 August and 7 September 2003.

14. On 9 September 2003 the District Court ruled that the applicant's action was inadmissible as his submissions to the court were so incomplete that they could not form a basis for the proceedings. The court referred to Chapter 5, Article 6 of the Code of Judicial Procedure in that connection.

15. The applicant appealed against the decision to the Helsinki Court of Appeal (*hovioikeus, hovrätten*). In its decision of 1 July 2004 the appellate court stated, *inter alia*, that the applicant's application for a summons and his supplementary submissions thereto were confused in several parts and difficult to understand. However, it could be deduced from his submissions that his claims concerned an alleged advance on the inheritance received by his brother and compensation due to the applicant for his own work in the interests of the estate. The court found that the applicant had sufficiently explained those circumstances which formed the grounds for his action and that he had even submitted monetary claims with accompanying explanations. The court concluded that the District Court should not have ruled the action inadmissible and remitted the case to that court. It ordered

the District Court to open the examination of the case of its own motion after one month had elapsed from the date when the Court of Appeal's decision had gained legal force.

16. On 3 February 2005 the Supreme Court (*korkein oikeus, högsta domstolen*) refused the defendant leave to appeal and the above decision became legally binding.

17. On 5 May 2006 the Helsinki District Court dismissed the applicant's action mainly for lack of evidence in support of his claims.

18. On 19 June 2007 the Helsinki Court of Appeal dismissed the applicant's appeal endorsing the lower court's reasoning for the most part.

19. On 26 February 2008 the Supreme Court refused leave to appeal.

The second set of proceedings

20. The applicant's mother died in 1999. The distribution of the estate, of which the applicant and his brother were the beneficiaries, was carried out by a lawyer on 27 December 2001.

21. On 11 January 2002 the applicant lodged a civil action against his brother and the lawyer with the Helsinki District Court contesting the distribution. On 2 April 2002 he filed another submission regarding the same issue.

22. On 7 March 2003 the court ordered the applicant to supplement his application for a summons to be issued much in the same manner as in the two requests concerning the applicant's first action.

23. The applicant filed three submissions between 19 March and 17 April 2003.

24. The defendants submitted their responses to the court on 23 and 28 July 2003. They both requested that the action be declared inadmissible or dismissed stating, *inter alia*, that they were unable to respond to the subject matter due to the obscurity of the applicant's submissions.

25. On 8 August 2003 the court requested the applicant to submit a detailed statement in response to those pleadings.

26. The applicant filed three submissions between 18 August and 7 September 2003.

27. On 9 September 2003 the District Court ruled that the applicant's action was inadmissible on similar grounds as in the case concerning his father's estate.

28. The applicant appealed against the inadmissibility decision to the Helsinki Court of Appeal as regarded the claims against his brother. As to the lawyer, his appeal only concerned the costs and expenses incurred in the lower court proceedings. On 1 July 2004 the appellate court found that the applicant's action had not been so incomplete as to allow the District Court to declare it inadmissible. This case was also remitted to the District Court for examination on the merits.

29. On 3 February 2005 the Supreme Court refused the applicant's brother leave to appeal and the Court of Appeal's decision concerning remittal became legally binding.

30. On 5 May 2006 the Helsinki District Court dismissed the applicant's action mainly for lack of evidence in support of his claims.

31. On 19 June 2007 the Helsinki Court of Appeal dismissed the applicant's appeal endorsing the lower court's reasoning for the most part.

32. On 26 February 2008 the Supreme Court refused leave to appeal.

THE LAW

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

33. The applicant complained that the length of the two sets of 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...”

34. The Government contested that argument.

35. As regards the first set of proceedings, the period to be taken into consideration began on 17 September 2001 and ended on 26 February 2008. It thus lasted six years, five months and eleven days for three levels of jurisdiction. As to the second set of proceedings the period to be taken into consideration began on 11 January 2002 and ended on 26 February 2008. It thus lasted six years, one month and sixteen days for three levels of jurisdiction. Both cases passed through each level twice.

A. Admissibility

36. The Court notes that this complaint 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

37. 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).

38. The Government argued that the applicant had been responsible for the length of both sets of proceedings because he had not employed the services of a lawyer and he lacked legal skills. He had made a considerable number of confused submissions to the courts, which rendered the cases complex.

39. The applicant contested those arguments. Owing to previous negative experiences, he did not have confidence in the services provided by lawyers.

40. In the light of the facts of the case, the Court can accept that the proceedings were made more complex by the lack of clarity and precision in the applicant's submissions. However, the Court does not find that the applicant's conduct alone contributed to the prolonged length of the proceedings. In this connection, the Court notes that the use of an advocate in civil proceedings is not obligatory under the Finnish law, and it is therefore possible for any legally competent person to bring a civil action and pursue his or her own case before the court. Further, the Court notes that there appear to have been certain periods of inactivity while the cases were pending before the District Court. In this respect the Court observes the period of some eleven months which elapsed before the District Court between the applicant's submissions of 2 April 2002 and the court's requests of 7 March 2003 for clarification of his claims, as well as the time taken by that court, one year and three months, to deliver its judgment after the appellate court's decision to remit the case had gained legal force.

41. 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).

42. 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 in the instant case the length of both sets of proceedings was excessive and failed to meet the "reasonable time" requirement.

There has accordingly been a breach of Article 6 § 1 in respect of both sets of proceedings.

II. REMAINDER OF THE APPLICATION

43. The applicant also complained under Article 6 of the Convention that the courts had a preconceived idea of the outcome of the two sets of proceedings and thus avoided relevant issues.

44. The Court finds that, in essence, this complaint concerns the assessment of evidence, which is a task of the national courts. Having

regard to its subsidiary role in that respect, the Court rejects this complaint as manifestly ill-founded in accordance with Article 35 §§ 3 and 4 of the Convention.

45. The applicant further complained that the outcome of the proceedings violated his rights under Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention.

46. The Court notes that Article 8 of the Convention guarantees the right to respect for private and family life. The case file does not disclose any appearance of a violation by the State under that Article. As to protection of property, guaranteed under Article 1 of Protocol No. 1 to the Convention, the Court observes that the impugned civil proceedings involved a dispute between private individuals. The mere fact that the judicial authorities provided a forum for the determination of such a dispute, in which the applicant was unsuccessful, does not of itself amount to an interference by the State of the right invoked. It follows that this complaint must also be rejected as manifestly ill-founded pursuant to Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

47. 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

48. The applicant claimed 150,000 euros (EUR) in respect of pecuniary and non-pecuniary damage.

49. The Government contested the claim. As to pecuniary damage they considered the claim unsubstantiated. In respect of non-pecuniary damage, the Government submitted that any compensation should not exceed EUR 3,000.

50. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. On the other hand, having regard to the circumstances of the case and ruling on an equitable basis, it awards the applicant EUR 1,000 in respect of non-pecuniary damage.

B. Costs and expenses

51. The applicant also claimed EUR 14,790.58 for the costs and expenses incurred before the domestic courts and an unspecified amount for those incurred before the Court.

52. The Government contested these claims. In their view, the amount claimed in respect of costs and expenses before the domestic courts did not relate to the complaint communicated to the Government. They further considered the applicant's claim for costs and expenses before the Court unsubstantiated.

53. 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. In the present case, regard being had to the information in its possession and the above criteria, the Court rejects the claim for costs and expenses in the domestic proceedings and considers it reasonable to award the applicant, who was not represented by a lawyer, the sum of EUR 100 under this head.

C. Default interest

54. 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 two sets of proceedings admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention in respect of both sets of proceedings;
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 1,000 (one thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 100 (one hundred euros) 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 10 November 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President