



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

1959 · 50 · 2009

FOURTH SECTION

CASE OF PETRINCOVÁ v. SLOVAKIA

(Application no. 11395/06)

JUDGMENT

STRASBOURG

8 December 2009

FINAL

08/03/2010

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 Petrincová 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 Lawrence Early, *Section Registrar*,

Having deliberated in private on 17 November 2009,

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

PROCEDURE

1. The case originated in an application (no. 11395/06) 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 Paulína Petrincová (“the applicant”), on 14 March 2006.

2. The applicant was represented by M. Sobota, a lawyer practising in Nitrianske Rudno. The Slovak Government (“the Government”) were represented by their Agent, Mrs M. Pirošíková.

3. On 5 February 2009 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 1919 and lives in Prievidza.

A. Proceedings on determination of heirs' shares

5. On 10 February 1992 the applicant submitted an inheritance-related claim to the State Notary in Bratislava. On 21 December 1992 the applicant

was informed that the ordinary courts had jurisdiction to deal with her claim.

6. On 11 June 1993 the applicant filed an inheritance-related claim with the Bratislava-vidiek District Court (whose case load was later transferred to the Bratislava III District Court).

7. On 4 October 1993 the District Court stayed the proceedings pending the outcome of related inheritance proceedings. The related proceedings were concluded on 20 November 1996.

8. On 19 June 2006 the Bratislava III District Court delivered a judgment. On 22 August 2006 the applicant appealed.

9. On 20 September 2007 the Bratislava Regional Court, without deciding on the merits, returned the case to the District Court to rectify errors in its judgment. On 31 October 2007 the case file was again submitted to the Regional Court.

10. On 20 November 2008 the Regional Court upheld the first-instance judgment. The judgment was served on the applicant on 16 December 2008.

B. Constitutional proceedings

11. On 3 November 2005 the Constitutional Court found that the Bratislava III District Court had violated the applicant's right to a hearing within a reasonable time. The Constitutional Court awarded the equivalent of 1,794 euros (EUR) to the applicant as just satisfaction in respect of non-pecuniary damage, ordered the District Court to avoid any further delay in the proceedings and to reimburse the applicant's legal costs.

12. The Constitutional Court observed that the factual complexity of the case did not justify the unreasonable length of the proceedings. The applicant by her conduct had not contributed to the prolongation of the proceedings. The Constitutional Court further noted that during the period under consideration, which exceeded 12 years, the District Court had not proceeded with the case in an effective manner, had held no more than two hearings and delays imputable to the latter totalled more than 5 years.

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 objected that, in respect of the part of the proceedings examined by the Constitutional Court, 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 a violation and its finding had had a sufficient compensatory and accelerating effect.

15. In any event, the applicant had not exhausted domestic remedies as it had been open to her to lodge a fresh complaint with the Constitutional Court in respect of the proceedings following the Constitutional Court's finding.

16. The applicant disagreed and stated that the period under consideration had started on 10 February 1992 when she had lodged her claim with the State Notary. The applicant further argued that the Constitutional Court's finding had not had a sufficient compensatory and accelerating effect.

17. The Court observes that the period to be taken into consideration began on 11 June 1993 when the applicant lodged an action with the District Court. At the time of the Constitutional Court's finding the proceedings lasted 12 years and 5 months. However, the Court observes that the proceedings were stayed pending the outcome of related inheritance proceedings. The Constitutional Court awarded the applicant the equivalent of EUR 1,794 as just satisfaction in respect of the proceedings examined by it and ordered the District Court to avoid any further delay in the proceedings.

18. The amount awarded by the Constitutional Court cannot be considered as providing 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-V and *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 65-107, ECHR 2006-V).

19. In view of the above, in respect of the proceedings up to the time of the Constitutional Court's finding, the Court concludes that the applicant did not lose her victim status within the meaning of Article 34 of the Convention.

20. Since the effects produced by the Constitutional Court's finding did not satisfy the criteria applied by the Court, the applicant was not required, for the purposes of Article 35 § 1 of the Convention, to use again the remedy under Article 127 of the Constitution in respect of the proceedings subsequent to the Constitutional Court's finding (see *mutatis mutandis* *Becová v. Slovakia* (dec.), no. 23788/06, 18 September 2007).

21. The proceedings started on 11 June 1993 and ended on 16 December 2008 when the Regional Court's judgment was served on the

applicant. They lasted 15 years and more than 6 months for two levels of jurisdiction.

22. The Court notes that this part of 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

23. The applicant pointed to several periods of inactivity on the part of the domestic courts. The applicant further argued that, in the period following the Constitutional Court's finding, the District Court had contributed to the prolongation of the proceedings as it had to rectify errors in its judgment of 19 June 2006.

24. The Government agreed with the Constitutional Court's finding that undue delays had occurred in the proceedings examined by it. However, they reiterated that the applicant had been provided sufficient redress in this respect.

25. 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 applicants and the relevant authorities and what was at stake for the applicants in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

26. 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).

27. 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. In particular, at the time of the Constitutional Court's finding the proceedings had lasted 12 years and 5 months. The Court observes that they were stayed on 4 October 1993 pending the outcome of related inheritance proceedings which had been concluded on 20 November 1996. Following the Constitutional Court's finding the proceedings continued for approximately 3 years and more than 1 month for two levels of jurisdiction and further delays occurred.

28. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

30. 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

31. The applicant claimed EUR 31,036 in respect of non-pecuniary damage.

32. The Government considered the claim exaggerated. They left the matter to the Court's discretion and requested the Court to take into account the just satisfaction awarded by the Constitutional Court.

33. The Court, having regard to the amount of compensation already awarded to the applicant at the national level, awards the applicant EUR 4,000 in respect of non-pecuniary damage.

B. Costs and expenses

34. The applicant also claimed EUR 2,655 for the costs and expenses incurred before the Court.

35. The Government considered the claim exaggerated.

36. 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 documents in its possession and the above criteria, the Court considers it reasonable to award the applicant, who was represented by a lawyer, the sum of EUR 1,300 for the proceedings before the Court.

C. Default interest

37. 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 4,000 (four thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 1,300 (one thousand three hundred 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 8 December 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President