



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

1959 · 50 · 2009

FOURTH SECTION

CASE OF PALDAN v. SLOVAKIA

(Application no. 18968/05)

JUDGMENT

STRASBOURG

15 December 2009

FINAL

15/03/2010

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 Paldan 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 24 November 2009,

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

PROCEDURE

1. The case originated in an application (no. 18968/05) 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, Mr František Paldan (“the applicant”), on 16 May 2005.

2. 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 1932 and lives in Trnava.

A. Proceedings concerning the applicant's action

5. On 17 April 2000 the applicant lodged a civil action before the Trnava District Court.

6. Following the applicant's failure to eliminate shortcomings in his action, the District Court discontinued the proceedings on 16 January 2001.

7. On 28 August 2001 the Trnava Regional Court quashed the above decision as the District Court had failed to instruct the applicant in a clear manner as to how to eliminate the shortcomings in his action. On 27 November 2001 the case was remitted to the District Court.

8. On 29 November 2002, 20 January 2003 and 1 July 2004 the applicant addressed a request for acceleration of the proceedings and two complaints about undue delays to the President of the District Court.

9. On 24 August 2005 the District Court rejected the applicant's action due to his failure to eliminate shortcomings in his action although he had been instructed how to do so.

10. On 14 July 2006 the Regional Court confirmed the first-instance decision. The decision became final on 22 August 2006.

B. Constitutional proceedings

11. On 16 March 2005 the Constitutional Court rejected as being manifestly ill-founded the applicant's complaint about a violation by the District Court of his right to a hearing without unjustified delay.

12. The Constitutional Court observed that a single period of inactivity (12 months) of the District Court had not led to a breach of the applicant's right to a hearing within a reasonable time. Furthermore, it held that the remedy used by the applicant, namely the complaint about undue delays to the President of the District Court, had had an accelerating effect.

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 agreed with the Constitutional Court's decision and pointed to the latter's reasoning. Furthermore, they argued that the Constitutional Court had found that there had been periods of inactivity in the proceedings before the District Court. The applicant used an effective remedy of a preventive nature, namely a complaint to the President of the

District Court. The Government were therefore of the opinion that the national authorities had acknowledged and afforded redress for the breach of the Convention and the applicant could no longer claim to be a victim of a violation of his right to a hearing within a reasonable time.

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

16. The applicant disagreed.

17. The Court observes that the Constitutional Court rejected the applicant's complaint as being manifestly ill-founded. The latter's decision cannot be considered as providing 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).

18. In view of the above, in respect of the proceedings up to the time of the Constitutional Court's decision, the Court concludes that the applicant can still claim to be a victim within the meaning of Article 34 of the Convention.

19. In these circumstances, 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 decision (see *mutatis mutandis Becová v. Slovakia* (dec.), no. 23788/06, 18 September 2007).

20. The proceedings started on 17 April 2000 and ended on 22 August 2006 when the Regional Court's decision was served on the applicant. They lasted 6 years and more than 4 months for two levels of jurisdiction.

21. 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

22. The applicant maintained his complaint.

23. The Government stated, in so far as the period of the proceedings examined by the Constitutional Court was concerned, that there had been one period of inactivity in the proceedings before the District Court. However, they agreed with the Constitutional Court's decision that this single period of inactivity had not led to a violation of the applicant's right to a hearing within a reasonable time. As to the period subsequent to the Constitutional Court's decision, the Government argued that the proceedings had not been complex, the applicant by his conduct had contributed to their

prolongation and no further delays had occurred. They considered that the applicant's right to a hearing within a reasonable time had been respected.

24. 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).

25. 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).

26. 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.

27. The Court observes that the applicant, by his unclear submissions, contributed to the prolongation of the proceedings. This cannot, however, justify the overall duration of the proceedings which was also due to the ineffective conduct of the District Court.

28. Having regard to its case-law on the subject, the Court considers that in the instant case the overall 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. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1

30. In connection with the facts of the case the applicant alleged discrimination contrary to Article 14 of the Convention. The applicant also alleged a violation of Article 1 of Protocol No. 1.

31. However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights guaranteed under the Convention or its Protocols.

32. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

33. 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

34. The applicant claimed 900 euros (EUR) in respect of pecuniary and EUR 5,000 in respect of non-pecuniary damage.

35. The Government contested the pecuniary damage claimed by the applicant. They considered the claim for non-pecuniary damage exaggerated.

36. 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, it awards the applicant EUR 3,000 in respect of non-pecuniary damage.

B. Costs and expenses

37. The applicant submitted no claim for costs and expenses.

C. Default interest

38. 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 proceedings admissible and the remainder of the application inadmissible;
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, EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(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 applicant's claim for just satisfaction.

Done in English, and notified in writing on 15 December 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President