



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

SECOND SECTION

CASE OF ČÍŽKOVÁ v. SERBIA

(Application no. 8044/06)

JUDGMENT

STRASBOURG

19 January 2010

FINAL

19/04/2010

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Čížková v. Serbia,

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

Françoise Tulkens, *President*,
Ireneu Cabral Barreto,
Vladimiro Zagrebelsky,
Danutė Jočienė,
Dragoljub Popović,
András Sajó,
Nona Tsotsoria, *judges*,
and Sally Dollé, *Section Registrar*,

Having deliberated in private on 15 December 2009,

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

PROCEDURE

1. The case originated in an application (no. 8044/06) against the State Union of Serbia and Montenegro, lodged with the Court, under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”), by a Czech national, Ms Drahomira Čížková (“the applicant”), on 16 February 2006.

2. As of 3 June 2006, following the Montenegrin declaration of independence, Serbia remained the sole respondent in the proceedings before the Court.

3. The applicant was represented by Mr S. Myslil, a lawyer practising in Prague. The Serbian Government (“the Government”) were represented by their Agent, Mr S. Carić.

4. On 30 August 2006 the President of the Second Section decided to give notice of the application to the Government. Applying Article 29 § 3 of the Convention, it was also decided to examine the merits of the application at the same time as its admissibility.

5. The Czech Government were invited to intervene in the proceedings (Article 36 § 1 of the Convention). However, by letter of 12 February 2007, they informed the Court that they did not wish to exercise their right to do so.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

6. The applicant was born in 1947 and lives in Tabor, Czech Republic.

7. On 27 August 1982 the applicant was involved in a major traffic accident in Serbia. Her car was destroyed in a head-on collision with an inter-city bus while the applicant and her family members all sustained serious injuries.

8. On 16 May 1985 the applicant filed a compensation claim against a Serbian insurance company with the Municipal Court in Novi Sad (*Opštinski sud u Novom Sadu*).

9. Following two remittals, both of which took place before Serbia ratified the Convention, on 25 October 2002 the parties in the domestic proceedings informed the Municipal Court that they were willing to consider a friendly settlement.

10. On 18 March 2003 the Municipal Court suspended the proceedings, stating that they would be continued should the parties fail to reach a settlement.

11. Since the friendly settlement negotiations were unsuccessful, on 13 February 2004 the applicant urged the Municipal Court to resume the proceedings.

12. Following at least three scheduled hearings and the receipt of an expert's report, on 14 June 2007 the Municipal Court ultimately ruled partly in favour of the applicant. On an unspecified date thereafter this judgment became final since neither party filed an appeal against it.

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION CONCERNING THE LENGTH OF THE PROCEEDINGS IN QUESTION

13. The applicant complained under Article 6 § 1 of the Convention that the length of the proceedings in question had been incompatible with the “reasonable time” requirement 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 ...”

14. The Government contested that argument.

15. The Court observes that the proceedings in question ended by 14 June 2007. Since the respondent State ratified the Convention on 4 March 2004, they have thus been within the Court's competence *ratione temporis* for a period of more than three years and three months at one level of jurisdiction.

16. The Court also recalls that, in order to determine the reasonableness of the delay at issue, regard must be had to the state of the case on the date of ratification (see, *mutatis mutandis*, *Styranowski v. Poland*, 30 October 1998, *Reports of Judgments and Decisions* 1998-VIII) and notes that on 3 March 2004 the impugned proceedings had already been pending for almost nineteen years in all.

17. The Government raised various objections to the admissibility of the applicant's complaint. However, the Court has rejected similar objections in many previous cases (see, for example, *Cvetković v. Serbia*, no. 17271/04, §§ 38 and 42, 10 June 2008; *Tomić v. Serbia*, no. 25959/06, §§ 81 and 82, 26 June 2007; *V.A.M. v. Serbia*, no. 39177/05, §§ 85 and 86, 13 March 2007). It finds no particular circumstances in the instant case which would require a departure from this jurisprudence. It therefore declares this complaint admissible.

18. The Government further stated that there had been no violation of Article 6.

19. 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).

20. 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.

21. 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 view of its case-law on the subject, the Court therefore considers that the length of the impugned proceedings was excessive and failed to meet the “reasonable time” requirement. There has accordingly been a breach of Article 6 § 1.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION CONCERNING THE FAIRNESS OF THE PROCEEDINGS IN QUESTION

22. The applicant further complained under Article 6 of the Convention that the proceedings at issue had been unfair.

23. The Court notes that the applicant did not avail herself of the opportunity to file an appeal against the Municipal Court's judgment of 14 June 2007. It follows that this part of the application is inadmissible for non-exhaustion of domestic remedies, pursuant to Article 35 §§ 1 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. 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

25. The applicant claimed 50,000 euros (EUR) and EUR 130,000 in respect of the non-pecuniary and pecuniary damages suffered, respectively.

26. As regards the former, the Court considers that the applicant must have suffered some non-pecuniary damage as a result of the procedural delay at issue. Accordingly, taking into account the circumstances of the case and making its assessment on an equitable basis, the Court awards the applicant EUR 1,200 under this head.

27. The Court, however, does not discern a causal link between the violation found and the pecuniary damage sought. It therefore rejects the applicant's claim in this regard.

B. Costs and expenses

28. The applicant did not make any claim for costs and expenses. Accordingly, the Court is not required to make an award under this head.

C. Default interest

29. 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 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 1,200 (one thousand two hundred euros) in respect of the non-pecuniary damage suffered, which sum is to be converted into the national currency of the respondent State at the rate applicable on the date of settlement, plus any tax that may be chargeable;

(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 19 January 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President