



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

FOURTH SECTION

**CASE OF ANDRIA OY AND KARI KARANKO v. FINLAND**

*(Application no. 61557/00)*

JUDGMENT

STRASBOURG

17 July 2007

**FINAL**

*17/10/2007*

*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 Andria Oy and Kari Karanko v. Finland,**

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

Sir Nicolas BRATZA, *President*,

Mr J. CASADEVALL,

Mr G. BONELLO,

Mr K. TRAJA,

Mr S. PAVLOVSKI,

Mr J. ŠIKUTA,

Mrs P. HIRVELÄ, *judges*,

and Mr T.L. EARLY, *Section Registrar*,

Having deliberated in private on 13 March 2007 and on 26 June 2007,

Delivers the following judgment, which was adopted on the last-mentioned date:

## PROCEDURE

1. The case originated in an application (no. 61557/00) 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 limited liability company Andria Oy (“the applicant company”), owned by Mr Kari Karanko (“the second applicant”), on 10 July 2000 and 10 April 2002.

2. The applicants, who had been granted legal aid, were represented by Mr Tapio Karhunen, a lawyer practising in Turku. The Finnish Government (“the Government”) were represented by their Agent, Mr Arto Kosonen of the Ministry for Foreign Affairs.

3. The applicants alleged, among other things, that the length of the proceedings in their case had been excessive.

4. By a decision of 13 March 2007 the Court declared the application partly admissible.

5. The applicants and the Government each filed observations on the merits (Rule 59 § 1).

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

6. The applicant, an owner of the applicant company, was born in 1958 and lives in Velkua.

7. Since August 1993 S. had ordered children's clothing from the then Andria Oy (apparently not the same company as the applicant company, and since 8 June 1994 called "Saariston Matkailuautot Oy"). In May 1994 the then Andria Oy's debt collecting operation was transferred to a company E.

8. On 26 July 1994, E., which is not an applicant before this Court, filed a writ of summons (case no. 94/6599) against S. with the Vantaa District Court (*käräjäoikeus, tingsrätten*). The plaintiff E. was represented by the second applicant. The plaintiff requested outstanding payment of FIM 5,327 (EUR 896) with interest for an order of children's clothing made by S.

9. On 20 October 1994, the summons was served on the defendant, who contested the claims, alleging that he had cancelled the order in time.

10. The court held a preparatory hearing on 19 May 1995, in which the plaintiff E. was represented by the second applicant. According to the Government, the plaintiff had stated that it would file a supplementary writ of summons and a claim for damages. On 5 July 1995 E.'s representative R. and the court agreed by telephone that the supplementary claims were to be submitted by 15 August 1995.

11. Around February–March 1997 the District Court informed the plaintiff E. that a preparatory hearing would be held in May 1997 and reminded that it had not lodged a supplementary summons.

12. On 25 April 1997, the applicant company filed a new writ of summons against S. with the District Court (case no. 97/2645). This claim also concerned the recovery of an outstanding payment of FIM 5,327 (EUR 896) for the purchase of goods. The applicant company also claimed damages in the amount of FIM 18,850 (EUR 4,179). The summons was served on the defendant on 27 June 1997, who submitted his response on 25 July 1997.

13. Meanwhile, the preparatory hearing concerning the first writ of summons, filed by E., scheduled for 29 May 1997, was cancelled.

14. The District Court considered it appropriate to examine all the claims together. According to the Government, on 10 June 1998 it joined the actions and served the defendant's responses on the plaintiffs.

15. On 15 April 1999 and 31 May 1999, the court held preparatory hearings. The main hearing was held on 23 August 1999, at which one witness was heard. The court also examined seven items of written evidence. At the hearing, the applicant company submitted a further claim for damages of FIM 6,000 (EUR 1,009).

16. On 6 September 1999 the court issued a joint judgment in the two cases. Without giving reasons, E. was no longer considered as a plaintiff and the applicant company was indicated as the only plaintiff. The court rejected all the claims and ordered the applicant company, together with the second applicant, to pay the defendant's legal expenses. It found that the second applicant, being the plaintiff's legal representative, had negligently caused S. to incur legal costs. In its judgment it also noted the following:

“It was not possible for the District Court to eliminate entirely the lack of clarity in the claims of the parties, especially those of the plaintiff, and the grounds of and evidence for these claims. ... It has examined the case to the extent that the parties have presented their claims and the grounds for them, and what had been the matter in question in the District Court’s view.”

17. E. and the applicants appealed to the Court of Appeal, stressing, *inter alia*, that E. had issued the first writ of summons. The appellate court upheld the judgment on 27 December 2000, without holding an oral hearing. It considered, as the District Court, that the applicant company was the only plaintiff in the proceedings and consequently dismissed E.’s appeal.

18. According to the applicants, E. transferred the allegedly outstanding account from S. to the applicant company on 26 February 2001.

19. E. and the applicants sought leave to appeal and appealed to the Supreme Court (*korkein oikeus, högsta domstolen*), complaining, *inter alia*, about the length of the proceedings. They also alleged that both E. and the applicant company had lodged summonses and, consequently, the two companies’ claims should not have been examined together. They further stated:

“[The applicant company] has been a party to the proceedings only as of 24 April 1997 when it filed a writ of summons with the Vantaa District Court (summons no. 97/2645), by which it requested damages from [S.]...”

20. The Supreme Court refused leave to appeal on 10 October 2001.

## THE LAW

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

21. The applicants claimed to be victims of a violation of the reasonable time requirement of Article 6 § 1 of the Convention, which reads, in so far as relevant:

“In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal...”

#### A. Period to be taken into account

22. The date on which the proceedings started is a matter of dispute between the parties. In the applicants’ view the proceedings began on 26 July 1994 when E. filed a summons with the District Court. Having originally considered that the proceedings began on 20 October 1994, the Government submitted in their further observations of 14 May 2007 that the

applicant company did not become a party to the domestic proceedings until 25 April 1997. Thus, in their view, the time taken by the District Court to consider E.'s damages claim of 26 July 1994 should not be taken into account when calculating the length of the proceedings. Furthermore, as to the second applicant, the Government noted that he was not a plaintiff before the District Court and could not be considered a party to the domestic proceedings until 6 September 1999 when the District Court issued its judgment declaring him, together with the applicant company, liable for the defendant's legal costs.

23. It was common ground that the proceedings ended on 10 October 2001 when the Supreme Court refused leave to appeal.

24. The Court observes at the outset that the applicant company filed its writ of summons on 25 April 1997. The summons concerned the same facts as the summons filed by E. on 26 July 1994. E. is not an applicant before this Court. Therefore, a question arises as to whether the District Court proceedings between 26 July 1994 and 25 April 1997 concerned the instant applicants' civil rights and obligations within the meaning of Article 6 § 1 such that this intermediary period should be taken into account when assessing the overall length. However, for the reasons set out below the Court does not need to decide this question, as it appears that, in any event, the length of the proceedings did not exceed a reasonable time.

### **B. Reasonableness of the length of the proceedings**

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). The exercise of the right to a hearing within a reasonable time is subject, in civil cases, to diligence being shown by the parties concerned (see *Pretto and Others v. Italy*, judgment of 8 December 1983, Series A no. 71, pp. 14-15, § 33). Furthermore, only delays attributable to the State may justify a finding of a failure to comply with the "reasonable time" requirement (see *H. v. France*, judgment of 24 October 1989, Series A no. 162-A, p. 21-22, § 55).

26. The case concerned a civil dispute in which the defendant had allegedly breached contractual relations with the applicant company. It was not a complex dispute, although the Court takes note of the Government's argument that certain ambiguities had to be resolved.

27. As to the conduct of the parties, the Court notes that the first writ of summons was filed on 26 April 1994 by E., which is not an applicant before this Court. It appears that at the preparatory hearing, held on 19 May 1995,

the plaintiff E. announced that it intended to file supplementary claims, which claims should have been submitted by 15 August 1995. However, E. did not file any supplementary claims and E. was reminded by the District Court to do so. In the event the applicant company finally filed a new writ of summons with supplementary claims on 25 April 1997. It is not clear from the case-file why E. and the applicant company both filed almost identical summonses. In any event, the period of over twenty-three months taken by the plaintiff(s) to file further summonses and claims cannot be held against the authorities.

28. The first-instance court delivered its judgment on 6 September 1999, i.e. two years, four months and twelve days after the applicant company had lodged its writ of summons on 25 April 1997. The proceedings before the appellate instance took one year, three months and twenty-one days, ending on 27 December 2000. They were finally concluded some nine months later on 10 October 2001, when the Supreme Court refused leave to appeal. Thus the overall length was seven years, two months and seventeen days for three levels of jurisdiction, of which some two years is clearly not attributable to the authorities (see paragraph 27 above).

29. Further, as to the conduct of the applicants, the Court takes note of the Government's observation that the applicants had submitted new claims during the District Court proceedings. It can also be seen from the District Court's judgment that the plaintiff's claims and evidence were vague and confusing and that the District Court had to examine the case in line with its own perception of the subject matter of the dispute. The Court observes that the applicants did not show due diligence in the case and did not facilitate the courts' examination of it. Thus their conduct prolonged the proceedings.

30. At the same time the Court finds that it took the District Court over ten months from 25 July 1997 until 10 June 1998 to submit the defendant's response to the applicant company's writ of summons, and a further ten months from the latter date until 15 April 1999 before it held the first preparatory hearing. Apart from these delays, it sees no other reason to criticise the handling of the case by that court. After April 1999 the case proceeded at regular intervals, the District Court holding four hearings within fifteen months.

31. The proceedings before the Court of Appeal and the Supreme Court were expeditious, lasting some fifteen months and nine months, respectively.

32. Finally, as regards the matter at stake, the Court observes that the case concerned civil claims, in which the applicants were plaintiffs. Thus the applicants' case did not belong to a category that by its nature calls for special expedition (such as custody of children (see *Hokkanen v. Finland*, judgment of 23 September 1994, Series A no. 299-A, § 72), civil status and capacity (see *Mikulić v. Croatia*, no. 53176/99, § 44, ECHR 2002-I) or

labour disputes (see *Frydlender*, cited above, § 45, *Launikari v. Finland*, no. 34120/96, § 36, 5 October 2000)).

33. Having regard to all the circumstances of the case, the Court finds that the total length of the proceedings was not unreasonable.

34. It holds therefore that there has been no violation of Article 6 §1.

### FOR THESE REASONS, THE COURT UNANIMOUSLY

*Holds* that there has been no violation of Article 6 of the Convention.

Done in English, and notified in writing on 17 July 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY  
Registrar

Nicolas BRATZA  
President