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

FOURTH SECTION

DECISION

Application no. 40909/11
László Sándorné TÓTH
against Hungary

The European Court of Human Rights (Fourth Section), sitting on 13 June 2017 as a Committee composed of:

Faris Vehabović, *President,*
Carlo Ranzoni,
Péter Paczolay, *judges,*

and Andrea Tamietti, *Deputy Section Registrar,*

Having regard to the above application lodged on 28 June 2011,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mrs László Sándorné Tóth, is a Hungarian national, who was born in 1958 and lives in Szeged. He was represented before the Court by Mr A. Kovács, a lawyer practising in Szeged.

2. The Hungarian Government ("the Government") were represented by Mr Z. Tallódi, Agent, Ministry of Justice.

3. The facts of the case, as submitted by the parties, may be summarised as follows.

4. The applicant initiated a labour lawsuit before the Szeged Labour Court on 27 September 2001, requesting the court to establish the unlawfulness of the termination of her employment.

5. Due to an official liability action lodged by the applicant's husband against the superior court of the Szeged Labour Court, the judges of that latter court declared their bias in the case and requested its transfer to another court.

6. On 8 November 2001 the Supreme Court appointed the Kecskemét Labour Court to hear the case. The applicant submitted a motion for the exclusion of this court in view of the meanwhile extension of the official liability action (see paragraph 5 above) to the Kecskemét Labour Court as respondent. On 24 May 2004 the Szeged Court of Appeal therefore appointed the Gyula Labour Court to continue the proceedings.

7. Due to the extension of the official liability action (see paragraph 5 above) to the Gyula Labour Court as well, the Debrecen Labour Court was appointed to hear that case. The court nevertheless warned the applicant of the requirement of good faith in exercise of procedural rights. In its decision the court pointed out that "with her motions of bias and claim-extensions amounting to abusive exercise of rights and resulting in the exclusion of various courts, the plaintiff knowingly creates a situation wherein the adjudication of her case cannot take place before courts which are not to her liking (...)".

8. On 2 November 2004 the applicant herself requested the suspension of the proceedings until the delivery of the final decision in the liability action (see paragraph 5 above). Her request was dismissed.

9. On 21 January 2005 the applicant again requested the suspension of the proceedings, pending adjudication of her complaint lodged with the Court of Justice of the European Union. The request was dismissed.

10. On 16 March 2005 the liability action (see paragraph 5 above) was extended to the Debrecen Labour Court as well, and the applicant lodged a motion of bias against it. The Debrecen Court of Appeal refused to exclude the Debrecen Labour Court, and warned the applicant about the possibility to impose a fine.

11. On 20 March 2006 the applicant introduced a further motion of bias against the Debrecen Labour Court, since she had initiated criminal proceedings against it. Subsequently, the Debrecen Labour Court declared its bias and the case was therefore transferred to the Nyíregyháza Labour Court.

12. The applicant's husband extended the liability action (see paragraph 5 above) to the Nyíregyháza Labour Court as well; therefore the case was transferred to the Miskolc Labour Court on 6 February 2007.

13. The applicant submitted a motion of bias also against this court, which was dismissed by the Debrecen Court of Appeal. Thereafter, the liability action (see paragraph 5 above) was extended to the Miskolc Labour Court. Nevertheless, the Court of Appeal refused to exclude the Miskolc Labour Court.

14. On 3 April 2008 the Miskolc Labour Court delivered an interlocutory judgment and established the unlawfulness of the termination of the applicant's employment. This judgment was upheld by the Borsod-Abaúj-Zemplén County Regional Court on 18 September 2008.

15. The final first-instance judgment was delivered on 7 September 2010. The motion of bias submitted in the second instance proceedings was dismissed, and the second instance judgment was delivered on 11 January 2011. The Supreme Court delivered the review judgment in the case on 7 March 2012.

COMPLAINT

16. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement of Article 6 § 1 of the Convention.

THE LAW

17. According to the applicant, the length of the proceedings was excessive and thus violated Article 6 § 1 of the Convention.

In so far as relevant, this provision 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 ..."

18. The Government contested the applicant's complaint. They argued that the applicant had submitted motions of bias and complaints against every court which had dealt with her case, even repeatedly. The courts dismissed the motions, which resulted in the applicant or her husband bringing civil actions or filing criminal complaints. In the Government's view, the applicant rendered the domestic courts' work virtually impossible.

19. The applicant contested the Government's arguments. She submitted that the domestic courts had been inept to deal with the case. The applicant alleged that her spouse had been in legal dispute – in connection with a preceding legal dispute – with several Hungarian courts even beforehand and due to the development of that case the applicant's spouse found it to be reasonable to extend the litigation to other courts.

20. 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).

21. It was not contested by the Government that the issues involved in the applicant's claim were not complex. However, the parties disagreed as

to whether the applicant was to be reproached for the protraction of the proceedings.

22. The Court notes that the applicant submitted repeated motions of bias against every court which had dealt with her case. Further, the damage claim in the liability action (see paragraph 5 above) was extended to several courts that had been appointed to deal with the applicant's case. Due to this state of affairs the case had been dealt with by six different courts at first instance. In the Court's view, the applicant had actively contributed to the prolongation of her court case.

23. The Court has consistently held that although the applicants cannot be blamed for making full use of the remedies available to them under domestic law, their behaviour cannot be attributed to the respondent State and must be taken into account for the purpose of determining whether or not the reasonable time referred to in Article 6 § 1 has been exceeded (see *Erkner and Hofauer v. Austria*, no. 9616/81, § 68, 23 April 1987). The Court further reiterates that only delays attributable to the State may justify a finding of failure to comply with the "reasonable time" requirement (see, among other authorities, *Humen v. Poland* [GC], no. 26614/95, § 66, 15 October 1999, and *Proszak v. Poland*, 16 December 1997, § 40, *Reports of Judgments and Decisions* 1997-VIII). Therefore, the period between 27 September 2001 (lodging the claim – see paragraph 4 above) and 6 February 2007 (transfer of the case to Miskolc Labour Court that finally decided the case at first-instance – see paragraph 12 above), during which the protraction of the case had been caused by the need to deal with the applicant's motions of bias, cannot be imputed to the respondent Government.

24. The remaining relevant period between 6 February 2007 and 7 March 2012 (see paragraph 15 above) was five years and one month for three levels of jurisdiction. This was not sufficiently lengthy to justify a finding that there has been a violation of Article 6 § 1 of the Convention, even taking into account what was at stake for the applicant. It follows that the application must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 6 July 2017.

Andrea Tamietti
Deputy Registrar

Faris Vehabović
President