



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

FOURTH SECTION

CASE OF A.S. v. HUNGARY

(Application no. 921/14)

JUDGMENT

STRASBOURG

5 June 2018

This judgment is final but it may be subject to editorial revision.

In the case of A.S. v. Hungary,

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

Vincent A. De Gaetano, *President*,

Georges Ravarani,

Marko Bošnjak, *judges*,

and Andrea Tamietti, *Deputy Section Registrar*,

Having deliberated in private on 15 May 2018,

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

PROCEDURE

1. The case originated in an application (no. 921/14) against Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Hungarian national, Mr A.S. (“the applicant”), on 20 December 2013. The President of the Section acceded to the applicant’s request not to have his name disclosed (Rule 47 § 4 of the Rules of Court).

2. The applicant was represented by Mr D.A. Karsai, a lawyer practising in Budapest. The Hungarian Government (“the Government”) were represented by Mr Z. Tallódi, Agent, Ministry of Justice.

3. On 6 November 2017 the applicant’s complaint under Article 1 of Protocol No. 1 to the Convention concerning the imposition of 98% tax on part of his severance payment was communicated to the Government and the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

4. The applicant was born in 1968 and lives in Budapest.

5. The applicant was employed at a State institution. His employment was terminated in 2013. Upon the termination of his employment, a certain part of his severance payment was taxed at a 98% rate, in the amount of 5,648,101 Hungarian forints (HUF) (approximately 18,800 euros (EUR)).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1 TO THE THE CONVENTION

6. The applicant complained that the imposition of 98% tax on part of his remuneration due on termination of his employment had amounted to a deprivation of property in breach of Article 1 of Protocol No. 1 to the Convention.

7. The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

8. The Court observes that virtually identical circumstances gave rise to a violation of Article 1 of Protocol No. 1 in the case of *R.Sz. v. Hungary* (no. 41838/11, §§ 54-62, 2 July 2013), and is satisfied that there is no reason to hold otherwise in the present application.

It follows that there has been a violation of Article 1 of Protocol No. 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

9. Relying on Article 41 of the Convention, the applicant claimed HUF 5,648,101 (approximately EUR 18,800) in respect of pecuniary damage and EUR 20,000 in respect of non-pecuniary damage.

The Government argued that the applicant's claims were excessive.

10. Having regard to the fact that, in the absence of the 98% tax rate, the applicant's severance would have been in all likelihood subject to the general personal income taxation, the Court awards the applicant EUR 11,200 in respect of pecuniary and non-pecuniary damage combined.

11. The applicant claimed the reimbursement of costs and expenses incurred before the Court to be awarded in the amount of EUR 1,500.

The Government argued that the applicant's cost claim was excessive.

12. Having regard to all materials in the case file, the Court finds it reasonable to award the applicant EUR 500, for the costs and expenses pertaining to the proceedings before it.

13. The Court considers it appropriate that the default interest rate 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 1 of Protocol No. 1 to the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months, the following amounts, to be converted into Hungarian forints at the rate applicable at the date of settlement:
 - (i) EUR 11,200 (eleven thousand two hundred euros), plus any tax that may be chargeable, in respect of pecuniary and non-pecuniary damage; and
 - (ii) EUR 500 (five 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 5 June 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti
Deputy Registrar

Vincent A. De Gaetano
President