



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

SECOND SECTION

CASE OF GAJCSI v. HUNGARY

(Application no. 62924/10)

JUDGMENT

STRASBOURG

23 September 2014

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

In the case of Gajcsi v. Hungary,

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

Helen Keller, *President*,

András Sajó,

Robert Spano, *judges*,

and Abel Campos, *Deputy Section Registrar*,

Having deliberated in private on 2 September 2014,

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

PROCEDURE

1. The case originated in an application (no. 62924/10) against the Republic of 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 László Gajcsi (“the applicant”), on 11 October 2010.

2. The applicant was represented by Mr J. Fiala-Butora, a lawyer practising in Budapest. The Hungarian Government (“the Government”) were represented Mr Z. Tallódi, Agent, Ministry of Public Administration and Justice.

3. The applicant complained under Article 3 of Protocol No. 1 about an allegedly unjustified interference with his electoral rights.

4. On 25 June 2012 the application was communicated to the Government.

THE FACTS**THE CIRCUMSTANCES OF THE CASE**

5. The applicant was born in 1955 and lives in Kaposvár.

6. The applicant suffers from a so-called psycho-social disability. On 3 October 2006 the Court found a violation of Article 5 § 1 concerning his psychiatric detention (see *Gajcsi v. Hungary*, no. 34503/03).

7. On 12 January 2000 the Fonyód District Court placed the applicant under partial guardianship. As an automatic consequence flowing from Article 70(5) of the Constitution, as in force at the relevant time, his name was deleted from the electoral register.

8. On 8 July 2008 the Kaposvár District Court reviewed the applicant's situation and restored his legal capacity in all areas but health care matters. This change, however, did not restore his electoral rights.

9. The applicant could not vote in the general elections held in Hungary on 11 April 2010, due to the restriction on his legal capacity which resulted in the deprivation of his electoral rights.

THE LAW

10. The applicant complained that he was disenfranchised on account of his disability, in breach of Article 3 of Protocol No. 1. He relied on the Court's case-law as enounced in the judgment *Alajos Kiss v. Hungary* (no. 38832/06, 20 May 2010).

The Government did not dispute the applicant's arguments.

11. The Court considers that the circumstances of the present application are virtually identical to those of the *Alajos Kiss* judgment (cited above) and sees no reason to reach a different conclusion in the present case. It follows that there has been a violation of Article 3 of Protocol No. 1.

12. Relying on Article 41 of the Convention, the applicant claimed 3,000 euros (EUR) in respect of non-pecuniary damage.

13. The Government contested the claim.

14. The Court considers that the applicant must have sustained some non-pecuniary damage. Ruling on the basis of equity, it awards him EUR 2,700 under that head.

15. The applicant also claimed EUR 1,000 for the costs and expenses incurred before the Court.

16. The Government contested the claim.

17. Regard being had to the documents in its possession and to its case-law, the Court considers that the sum claimed should be awarded in full.

18. 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 3 of Protocol No. 1;

3. *Holds*

(a) that the respondent State is to pay the applicant, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 2,700 (two thousand seven hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 1,000 (one thousand 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 23 September 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Abel Campos
Deputy Registrar

Helen Keller
President