



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

THIRD SECTION

**CASE OF CSÁKÓ v. SLOVAKIA**

*(Application no. 47386/07)*

JUDGMENT

STRASBOURG

25 June 2013

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



**In the case of Csákó v. Slovakia,**

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

Luis López Guerra, *President*,

Ján Šikuta,

Nona Tsotsoria, *judges*,

and Marialena Tsirli, *Deputy Section Registrar*,

Having deliberated in private on 4 June 2013,

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

**PROCEDURE**

1. The case originated in an application (no. 47386/07) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Slovak national, Mr Ladislav Csákó (“the applicant”), on 23 October 2007.

2. The applicant was represented by Ms I. Rajtáková, a lawyer practising in Košice. The Government of the Slovak Republic (“the Government”) were represented by Ms M. Pirošíková, their Agent.

3. On 11 October 2010 the application was communicated to the Government.

**THE FACTS****THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1964 and lives in Rožňava.

**A. Enforcement**

5. On 19 February 2003 an individual (“the claimant”) filed a petition with a judicial enforcement officer (“JEO”) for the enforcement of the equivalent of some 1,315 euros (EUR) worth of an adjudicated claim against the applicant.

6. On 26 February 2003 the JEO requested authorisation to carry out the enforcement under file no. Ex 97/2003. The authorisation was granted by the Spišská Nová Ves District Court (“the Enforcement Court”) on 12 March 2003 under the file no. 1Er 279/03.

7. On 17 March 2003 the JEO issued a notice of enforcement (*upovedomenie o začatí exekúcie*), by which he notified the applicant that enforcement proceedings had commenced against him. The notice specified that amounts to be enforced comprised the above-mentioned principal amount, the equivalents of some EUR 20 in court fees, EUR 250 in the JEO's remuneration and EUR 50 in the JEO's expenses.

8. On 25 April 2003 the applicant challenged the notice of enforcement by way of a protest (*námietky*) to the Enforcement Court arguing that the principal amount had already been paid and disputing the claim for compensation in respect of the JEO's remuneration and expenses.

9. On 30 April 2003 the claimant filed his observations in reply to the applicant's protest and, on 5 May 2003, the JEO transmitted these observations to the Enforcement Court for determination of the protest.

10. On 14 June 2006 the Enforcement Court allowed the protest in part which concerned the principal amount and dismissed its remainder. That decision became final and binding on 8 July 2006, following which – on 21 July 2006 – the Enforcement Court discontinued the enforcement proceedings in so far as the principal amount was concerned. The latter decision became final and binding on 26 July 2006.

11. On 7 September 2006 the applicant lodged a petition that the remainder of the enforcement be discontinued too, which the Enforcement Court dismissed on 13 October 2006 by a decision that became final and binding on 28 November 2006.

12. On 27 December 2011, upon ultimate termination of the outstanding part of the enforcement proceedings, the JEO returned the authorisation deed to the Enforcement Court.

## **B. Constitutional complaint**

13. On 4 July 2006 the applicant filed a complaint under Article 127 of the Constitution to the Constitutional Court. Relying on Article 48 § 2 of the Constitution, he contended that the length of the enforcement proceedings against him had been excessive.

14. On 15 March 2007 the Constitutional Court declared the complaint inadmissible on the ground that, prior to his constitutional complaint, the applicant had failed to exhaust ordinary remedies, in particular the complaint to the President of the Enforcement Court.

The Constitutional Court's decision was served on the applicant on 23 April 2007.

## THE LAW

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

15. The applicant complained that the length of the enforcement proceedings had been incompatible with the “reasonable time” requirement, laid down in Article 6 § 1 of the Convention, 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...”

#### A. Admissibility

16. The Government submitted that the applicant had failed to comply with the requirement of exhaustion of domestic remedies. In that respect, they advanced two separate lines of argument.

First, relying on the Constitutional Court’s decision of 15 March 2007, the Government contended that the applicant had failed to bring his constitutional complaint in accordance with the applicable formal requirements. In particular, prior to his constitutional complaint, the applicant had failed to assert his complaint before the president of the Enforcement Court.

Second, the Government argued that the applicant had failed to seek redress in respect of the alleged violation of his Article 6 rights by way of an action for damages under the State Liability Act.

17. In reply, the applicant disagreed and pointed out that the Constitutional Court’s practice as regards the complaint about the length of the proceedings to the president of the court concerned as a requirement for the admissibility of a constitutional complaint was divergent and unpredictable.

Moreover, in the applicant’s view, there was no indication that the remedy advanced by the Government with reference to the State Liability Act was available and sufficient in terms of Article 35 § 1 of the Convention to afford redress in respect of the breaches alleged.

18. In a further submission, the Government disagreed with the applicant’s contentions and submitted, in particular, that a claim for damages under the State Liability Act could lead to the examination and an award of just satisfaction in respect of the overall length of the proceedings.

19. The Court observes that in its judgments in the cases of *Ištván and Ištvánová v. Slovakia* (no. 30189/07, §§ 52-55 and 63-99, 12 June 2012) and *Komanický v. Slovakia* (no. 6) (no. 40437/07, §§ 51-54 and 60-96, 12 June

2012) it examined at length and ultimately dismissed substantially the same objections as the Government raises in the present case.

20. Having found no reasons for reaching a different conclusion in the present case, the Court finds that the Government's objections to the admissibility of the applicant's complaint under Article 6 § 1 of the Convention must be dismissed.

21. The period to be taken into consideration began on 19 February 2003. While there is no absolute clarity as to when the proceedings in question ended, it was at latest on 27 December 2011. The proceedings thus lasted nearly 9 years for a single level of jurisdiction.

22. The Court notes that this 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.

## **B. Merits**

23. As to the substance, the Government acknowledged inactivity on the part of the Enforcement Court from 4 June 2004 to 14 June 2006 in view of which they accepted that the applicant's length-of-proceedings complaint "was not manifestly ill-founded".

24. 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).

25. 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 (see *Frydlender*, cited above).

26. Having examined all the material submitted to it, including the Government's admission (see paragraph 23 above), the Court has found no elements capable of persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

There has accordingly been a breach of Article 6 § 1 of the Convention.

## **II. ALLEGED VIOLATION OF ARTICLE 13, IN CONJUNCTION WITH ARTICLE 6 § 1 OF THE CONVENTION**

27. The applicant further complained of the fact that in view of the divergent practice of the Constitutional Court and the dismissal of his

constitutional complaint he had been denied an effective remedy in violation of Article 13, in conjunction with Article 6 § 1 of the Convention.

Article 13 of the Convention reads as follows:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

### A. Admissibility

28. The Government submitted that the applicant had at his disposal remedies compatible with the requirements of the Article invoked. Therefore, they considered that the complaint was manifestly ill-founded.

As a matter of principle, they advanced identical lines of argument as in the cases of *Ištván and Ištvánová* (cited above) and *Komanický (no. 6)* (cited above). In particular, prior to his constitutional complaint, the applicant had the opportunity of asserting his complaint by way of a complaint to the president of the Enforcement Court and, independently of that, he could have asserted his rights by way of a claim under the State Liability Act. Had all of these options failed, it would have been open to the applicant to resort to the Constitutional Court as an ultimate remedy.

29. Apart from the arguments submitted in respect of the Government’s objections in respect of his complaint under Article 6 § 1 of the Convention (see paragraph 17 above), the applicant has made no separate submission.

30. The Court notes that the Government’s arguments as to the exhaustion of domestic remedies in respect of the complaint under Article 6 § 1 of the Convention have been rejected (see paragraphs 19 *et seq.* above) and that a violation of that Article has been found (see paragraph 26 above).

It follows that the complaint under Article 13 of the Convention, in conjunction with Article 6 § 1 of the Convention, is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention.

The Court further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

### B. Merits

31. The Court recalls that in its above-mentioned judgments in the cases of *Ištván and Ištvánová* (cited above, §§ 108 - 113) and *Komanický (No. 6)* (cited above, §§ 104-110), it examined substantially the same complaint as asserted in the present case and substantially the same objections as raised by the Government in the present case while in those cases the Government’s objections have been dismissed and violations of Article 13

of the Convention have been found. It finds no reasons for reaching a different conclusion in the present case.

There has accordingly been a breach of Article 13, in conjunction with Article 6 § 1 of the Convention.

### III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

32. 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**

33. The applicant claimed EUR 4,500 in respect of non-pecuniary damage.

34. The Government contested the claim considering it to be overstated.

35. The Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it considers that the amount claimed should be awarded in full. It thus awards the applicant EUR 4,500 under that head.

#### **B. Costs and expenses**

36. The applicant also claimed EUR 1,422 for the costs of legal representation. In that respect, he submitted a contract with his lawyer under he is to pay the lawyer on the conclusion of the proceedings before the Court EUR 118.5 per hour of her legal service and declared that her service in the context of the present application comprised twelve hours of legal assistance.

37. The Government contested the claim considering it to be overstated and submitting that, except for the contract with his lawyer, the applicant had failed to submit any evidence and details as to its itemised specification.

38. Regard being had to the documents in its possession and to its case-law, the Court considers it reasonable to award the applicant, who was represented by a lawyer, the sum of EUR 1,000 under this head.

#### **C. Default interest**

39. 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 6 § 1 of the Convention;
3. *Holds* that there has been a violation of Article 13, in conjunction with Article 6 § 1 of the Convention;
4. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months, the following amounts:
    - (i) EUR 4,500 (four thousand five 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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 25 June 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Marialena Tsirli  
Deputy Registrar

Luis López Guerra  
President