



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

THIRD SECTION

CASE OF VISKUPOVÁ AND OTHERS v. SLOVAKIA

(Application no. 43730/06)

JUDGMENT

STRASBOURG

11 October 2011

FINAL

11/01/2012

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Viskupová and Others v. Slovakia,

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

Josep Casadevall, *President*,

Corneliu Bîrsan,

Alvina Gyulumyan,

Egbert Myjer,

Ján Šikuta,

Luis López Guerra,

Nona Tsotsoria, *judges*,

and Santiago Quesada, *Section Registrar*,

Having deliberated in private on 20 September 2011,

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

PROCEDURE

1. The case originated in an application (no. 43730/06) 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 four Slovak nationals, Ms Klementína Viskupová, Ms Anna Hermansová, Mr Jozef Stankovič and Ms Alžbeta Pichňová (“the applicant”), on 9 October 2006.

2. The applicants, of whom Ms Viskupová had been granted legal aid, were represented by Ms M. Čechová, a lawyer practising in Pezinok.

The Government of the Slovak Republic (“the Government”) were represented by their Agent, Ms M. Pirošíková.

3. The applicants alleged, in particular, that, on account of statutory and practical obstacles and contrary to the requirements of Article 6 § 1 of the Convention, they had not had access to a court with a view to obtaining enforcement of an adjudicated financial claim against a State-owned enterprise that had been in the process of liquidation.

4. On 26 August 2010 the Court decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicants, Ms Viskupová, Ms Hermansová, Mr Stankovič and Ms Pichňová, were born in 1948, 1947, 1945 and 1952 respectively. They are siblings. The applicants live in Bratislava (Slovakia), and Ms Hermansová also lives in Voorschoten (the Netherlands).

A. Property, owners and possessor

6. The applicant Mr Stankovič owns a share in a plot of land. The applicants each have a share in the estate of their late mother, who owned the remaining share in that plot. The proceedings for the division and distribution of the estate would appear to be still pending.

7. The plot has been *de facto* occupied by the State in the guise of a State-owned enterprise (“the defendant”); the applicants have been seeking compensation for this occupation (see below).

8. The status and functioning of the defendant were regulated by the State-owned Enterprises Act (Law no. 111/1990 Coll., as amended).

9. On 1 November 1991 the defendant went into liquidation. According to a publicly available official source, the liquidation process is ongoing.

10. On 15 November 1996 and 1 July 1998 amendments (Laws nos. 317/1996 Coll. and 166/1998 Coll. respectively) to the State-owned Enterprises Act entered into force.

They provide, *inter alia*, that the liquidator of a liquidated State-owned enterprise has an obligation to publish in the Commercial Journal (*Obchodný vestník*) an announcement on commencement of the liquidation process and to invite those concerned to register their claims within a given period, on pain of extinction of those claims.

They also provide that, by virtue of the commencement of the liquidation process, any enforcement proceedings against the State-owned enterprise in question are stayed.

For details, see paragraphs 29 to 34 in the “Relevant domestic law” below.

B. Judgment

11. On 21 October 1998 the Čadca District Court (*Okresný súd*) ruled that the defendant was to pay a sum of money to Mr Stankovič and to the applicants’ mother’s estate by way of compensation for unjustified

enrichment arising from the defendant's use of the property without valid title.

12. The defendant's appeal having been declared inadmissible, the judgment became final and binding (*právoplatnosť*) on 15 November 1999.

C. Attempts at enforcement

13. Between 2000 and 2005 the applicants contacted the liquidator of the defendant, the municipality where the defendant has its seat and the mayor of that municipality, the Supreme Auditing Office, the National Property Fund, the Ministry for Administration and Privatisation of National Property, the Ministry of Finance, the Ministry of the Interior, the police and other public institutions with numerous requests and complaints, seeking to recover the adjudicated amounts.

These efforts included, in particular, a letter of 10 May 2000 to the liquidator, formulated as a final warning prior to a petition for enforcement, demanding compliance with the judgment in the applicants' favour (see paragraph 11 above). However, they met with no success.

14. The applicants also made several submissions to the courts seeking judicial enforcement of the judgment.

These resulted, first, in a decision (*uznesenie*) of the District Court of 24 June 2002 to reject the applicants' claim, on the ground that it was unclear and, despite the court's written request, the applicants had failed to provide further and more specific details.

15. The applicants' subsequent motion of 20 February 2003 resulted in the opening of enforcement proceedings against the defendant.

16. The District Court took a number of steps to establish the nature and details of the applicants' motion. The applicants' challenge to all of judges of the District Court, alleging bias, was also examined and dismissed.

17. As established by the Constitutional Court in its decision of 10 May 2006 (see paragraph 21 below), there are file-notes in the District Court's case file, dated 5 and 13 May 2005, indicating (i) that the case file was to be submitted to the judge for determination as to whether the proceedings could continue in view of the provision in the amendments referred to in paragraph 10 above that the proceedings be stayed, and (ii) that the proceedings were to be stayed as they interfered with the functions of the liquidator.

On 12 July 2005, however, the District Court invited the liquidator to report on the progress of the liquidation.

18. The proceedings were eventually discontinued on 24 May 2006, in the procedural form of a decision (*uznesenie*), on the ground that, despite the court's written request, the applicants had failed to request the transfer of the proceedings to a judicial enforcement officer (*exekútor*) following the entry into force on 1 September 2005 of an amendment (Law no. 341/2005

Coll.) to the Code of Civil Proceedings (Law no. 99/1963 Coll., as amended – “the CCP”), under which enforcement of ordinary claims could no longer be carried out by either the courts or judicial enforcement officers, but only by the latter (for details see paragraphs 25 and 26 in the “Relevant domestic law” below).

No appeal lay against the decision.

D. Constitutional complaint

19. Meanwhile, on 25 January 2006, the applicants had filed a complaint under Article 127 of the Constitution (Constitutional Law no. 460/1992 Coll., as amended) (see paragraph 23 below) with the Constitutional Court (*Ústavný súd*). They contested the length of the proceedings in their enforcement petitions and also invoked, in substance, their right of access to a court.

20. The applicants’ complaint was directed against the District Court; its President filed observations in reply on 22 February 2006.

It was submitted that under the amendments referred to in paragraph 10 above, there was a statutory bar on the enforcement proceedings, on account of which the District Court could not have taken any action at all in the matter.

21. On 10 May 2006 the Constitutional Court declared the applicants’ complaint inadmissible as being manifestly ill-founded.

The Constitutional Court observed that, pursuant to section 15c(8) of the State-owned Enterprises Act, proceedings for the enforcement of financial claims against State-owned enterprises in liquidation were stayed by operation of law. This provision also applied, by way of implication, to enforcement proceedings under the CCP. Creditors of such claims should pursue their claims in the liquidation procedure under section 15c(2)(a) of that Act and it was the liquidator’s responsibility under section 15c(2)(g) to settle their claims.

The applicants had thus chosen an incorrect course of action by seeking enforcement of the judgment of 21 October 1998 as opposed to registering their claim under that judgment with the defendant’s liquidator. The applicants ought to have known the applicable rules.

22. The Constitutional Court concluded that, for the above-mentioned reasons, there had not been any undue delays in the proceedings before the District Court and that there had been no infringement of the applicants’ right of access to a court.

II. RELEVANT DOMESTIC LAW

A. The Constitution

23. Article 127 provides:

“1. The Constitutional Court shall decide complaints by natural or legal persons alleging a violation of their fundamental rights or freedoms ... unless the protection of such rights and freedoms falls within the jurisdiction of a different court.

2. If the Constitutional Court finds a complaint justified, it shall deliver a decision stating that a person's rights or freedoms as set out in paragraph 1 have been violated by a final decision, specific measure or other act and shall quash such a decision, measure or act. If the violation that has been found is the result of a failure to act, the Constitutional Court may order [the authority] which has violated the rights or freedoms to take the necessary action. At the same time it may remit the case to the authority concerned for further proceedings, order that authority to refrain from violating the fundamental rights and freedoms ... or, where appropriate, order those who have violated the rights or freedoms set out in paragraph 1 to restore the situation to that existing prior to the violation.

3. In its decision on a complaint the Constitutional Court may grant appropriate financial compensation to a person whose rights under paragraph 1 have been violated.”

B. Enforcement

24. Until 31 August 2005, if a judgment debtor failed to comply with his or her adjudicated obligation, the creditor had two essentially equipollent options of seeking enforcement, by a court under the CCP and by a judicial enforcement officer under the Judicial Enforcement Code (Law no. 233/1995 Coll., as amended).

25. With effect from 1 September 2005, Article 251 and other related provisions of the CCP were amended by Law no. 341/2005 Coll. in that, with certain exceptions that are not relevant to the present case, enforcement of adjudicated claims was henceforth to take place under the Judicial Enforcement Code.

26. Under Article 372m §§ 1 and 3 of the CPP, as amended by Law no. 341/2005 Coll., creditors seeking enforcement of their claims before courts had six months from the entry into force of the amendment to initiate enforcement proceedings under the Judicial Enforcement Code and to inform the enforcement court accordingly. Should they fail to do so, enforcement before the courts was to be discontinued.

27. The status of judicial enforcement officers and the procedures for enforcement by judicial enforcement officers are governed by the Judicial Enforcement Code. Under its Article 2 § 1, a judicial enforcement officer is

a person designated and entrusted by the State with obtaining forcible compliance with judicial and other decisions.

C. State-owned Enterprises Act

28. The Act regulates the status and functioning of State-owned enterprises (section 1).

29. Law no. 317/1996 Coll. amended the Act with effect from 15 November 1996. It introduced, *inter alia*, sections 15a to 15e, providing for detailed rules concerning the liquidation of State-owned enterprises.

30. Section 15c(2)(a) of the amended Act provides:

“In the course of liquidation the liquidator has an obligation to publish in the Commercial Journal a notice on commencement of the entry of the [State-owned] enterprise into liquidation, together with a call for all creditors and other persons and bodies which are concerned by the enterprise’s entry into liquidation, to register their claims or other rights within a period which cannot be shorter than 90 days from the enterprise’s entry into liquidation, failing which [such claims or rights] become extinct”.

31. Under Section 15c(2)(g) of the amended Act:

“In the course of liquidation the liquidator has a duty to settle obligations and claims”.

32. Section 15c(7) of the amended Act provided:

“Liquidation of a [State-owned] enterprise cannot be interrupted by other proceedings under special statute [such as, for example, enforcement proceedings under the Judicial Enforcement Code].”

33. Law no. 166/1998 Coll. amended the Act with effect from 1 July 1998. Among other things, it amended the wording of Section 15c(7) of the Act as follows:

“Proceedings under special statute [such as, for example, enforcement proceedings under the Judicial Enforcement Code] shall be stayed by the [State-owned] enterprise’s entry into liquidation.”

34. Section 15c (7) of the Act was subsequently renumbered as section 15c (8), without any change in its wording.

D. Reopening of proceedings further to a judgment by the Court

35. Under Article 228 § 1 (d) of the CCP, civil proceedings may be reopened where the Court has found a violation of the requesting party’s Convention rights and where any serious consequences arising from the violation have not been adequately redressed by the award of just satisfaction. In principle, however, only proceedings which have been concluded by means of a judgment (*rozsudok*) can be reopened.

THE LAW

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

36. The applicants complained that the domestic courts had inadequately handled their enforcement petitions and that it had been impossible to obtain enforcement of their adjudicated claim, in violation of Article 6 § 1 of the Convention, which provides:

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

A. Admissibility

37. The Government relied on the amended provisions of section 15c(2)(a) and (g) and section 15c(8) of the State-owned Enterprises Act (see paragraphs 30 to 34 above) and the decision of the Constitutional Court of 10 May 2006 (see paragraphs 21 and 22 above) and argued, firstly, that the complaint was incompatible *ratione materiae* with the provisions of the Convention. In that respect, they submitted that the applicants had been required to register their claim under the judgment of 21 October 1998 (see paragraphs 11 and 12 above) with the defendant’s liquidator, who would then have been duty-bound to ensure that it be settled. As they had failed to do so, and as any enforcement proceedings against the defendant were stayed by operation of law, applicable to the applicants’ case from the very outset of their enforcement claim, Article 6 § 1 of the Convention was inapplicable to their case. For that matter, the Government referred to the Court’s decision of 13 September 2001 in the application of *J.K. v. Slovakia* (no. 38794/97) and submitted that the decision to discontinue the applicants’ enforcement claim was merely a procedural decision with no implications for the applicants’ “civil rights and obligations”.

38. Furthermore, and in any event, the Government considered that the applicants had failed to exhaust domestic remedies as required by Article 35 § 1 of the Convention, in that they had failed to pursue the lawful course of action by filing their claim with the defendant’s liquidator.

39. The applicants disagreed.

40. The Court reiterates that, according to its established case-law, Article 6 § 1 secures to everyone the right to have any claim relating to his civil rights and obligations brought before a court or tribunal; in this way it embodies the “right to a court”, of which the right of access, that is the right to institute proceedings before courts in civil matters, constitutes one aspect. However, that right would be illusory if a Contracting State’s domestic legal system allowed a final, binding judicial decision to remain inoperative to

the detriment of one party. It would be inconceivable that Article 6 § 1 of the Convention should describe in detail procedural guarantees afforded to litigants - proceedings that are fair, public and expeditious - without protecting the implementation of judicial decisions; to construe Article 6 as being concerned exclusively with access to a court and the conduct of proceedings would be likely to lead to situations incompatible with the principle of the rule of law which the Contracting States undertook to respect when they ratified the Convention. Execution of a judgment given by any court must therefore be regarded as an integral part of the “trial” for the purposes of Article 6 (see, for example, *Hornsby v. Greece*, 19 March 1997, § 40, *Reports of Judgments and Decisions* 1997-II and *Jafarli and Others v. Azerbaijan*, no. 36079/06, § 52, 29 July 2010).

41. In the present case the applicants obtained a court judgment adjudicating a financial claim in their favour, and that judgment for payment became final and binding (see paragraphs 11 and 12 above).

42. In chronological terms, the Court considers it of relevance that the order for payment was issued on 21 October 1998 (see paragraph 11 above) and became final and binding on 15 November 1999 (see paragraph 12 above), that is, after the amendment to the State-owned Enterprises Act had entered into force on 15 November 1996 (see paragraph 29 above), introducing the requirement that claims be registered with liquidators of State-owned Enterprises on pain of becoming extinct.

43. Accordingly, the Court has found no grounds for reaching any conclusion other than that the applicants’ adjudicated claim amounted to a “civil right” within the purview of Article 6 § 1 of the Convention. That right accordingly fell within the ambit of that Article and that Article accordingly applied to it.

44. In so far as the Government have relied on the Court’s decision in *J.K. v. Slovakia* (see paragraph 37 above), the Court points out that, in that case it examined, *inter alia*, the applicability of Article 6 § 1 of the Convention *ratione materiae* to proceedings concerning the applicant’s claim for restitution of land located in Podunajské Biskupice and Prievoz – Malé pálenisko and his claim for compensation for the use of his land located in Podunajské Biskupice (points 2 and 5 in “The Facts” of that decision). Those proceedings had been discontinued on the ground that they concerned the same subject-matter as other sets of proceedings pending before the same court. The Court found that those procedural decisions did not amount to a determination of the applicant’s “civil rights and obligations” within the meaning of Article 6 § 1 of the Convention, which accordingly was inapplicable *ratione materiae* to the discontinued proceedings.

45. The Court observes that in *J.K.* (cited above) no issue of access to a court was at stake. In so far as the Government’s objection has been substantiated, it fails to discern any direct relevance of their argument in

respect of the applicability of the guarantees of Article 6 § 1 of the Convention to enforcement of the applicants' claim which in the present case was adjudicated by a final and binding judicial decision (in this context see also the case-law quoted in paragraph 40 above).

46. The Government's argument made in reliance on the Court's decision in *J.K.* (cited above) cannot therefore be sustained.

47. In sum, the Government's objection of the incompatibility *ratione materiae* of the applicants' claim with the provisions of the Convention has to be dismissed.

48. As to the Government's objection of non-exhaustion of domestic remedies, made in reliance on amended section 15c(2)(a) and (g) of the State-owned Enterprises Act, the Court observes, firstly, that the defendant went into liquidation on 1 November 1991 (see paragraph 9 above) and that the provisions requiring its liquidator to announce the entry into liquidation and to publish a call for creditors to register their claims were enacted with effect from 15 November 1996 (see paragraphs 29 and 30 above). The Court also observes that no transitory rules would appear to have been adopted by the legislature for the application of this requirement.

49. In these circumstances, the Court considers that it is questionable whether, when and how the applicants could have proceeded in compliance with the amended section 15c(2)(a) and (g) of the State-owned Enterprises Act. Moreover, it is to be noted that, after their judgment had become final and binding, the applicants did request that the liquidator abide by it (see paragraph 13 above).

50. Nevertheless, even if the applicants could have proceeded in compliance with those provisions and failed to do so, the Court notes that such a course of action would only have made them a party to the liquidation process, which does not amount to official proceedings and carries no element of judicial supervision. Thus, the Government's second objection also lacks merit and must be dismissed.

51. The Court notes that the relevant part of the application 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

52. The applicants complained of the way in which the domestic courts had handled their enforcement petitions and alleged that it had been impossible to have their adjudicated claim enforced.

53. The Government submitted that the domestic courts had proceeded in full compliance with the applicable rules and that they had provided the applicants with judicial proceedings that had been fair. It had been the applicants' responsibility to make use of the opportunities open to them

under the applicable law, in particular the possibility of requesting the transfer of the enforcement proceedings to a judicial enforcement officer (see paragraphs 18, 25 and 26 above), and they had not done so.

54. In reply, the applicants reiterated their complaint and emphasised that the domestic courts had failed to apply the relevant rules on admissibility of their enforcement petitions efficiently, which had delayed the outcome of those petitions and thwarted the chances for the actual satisfaction of their claim by any other means. The applicants also emphasised that, although they had spent many years in asserting their claim before the ordinary and the enforcement courts, this had been to no avail, as the claim was still not satisfied.

55. The Court observes that the applicants have a private-law financial claim, allowed by a court of law in a judgment that became final and binding on 15 November 1999 (see paragraphs 7, 11 and 12 above). This claim is against a State-owned enterprise, which had gone into liquidation on 1 November 1991 (see paragraph 9 above), there being no indication of its being insolvent.

56. The Court also notes that by operation of section 15c(8) of the State-owned Enterprises Act, as in force from 1 July 1998, enforcement proceedings against a State-owned enterprise in liquidation are stayed by its entry into liquidation (see paragraphs 33 and 34 above).

57. Moreover, in respect of the specific circumstances of the present case, the Court observes that, as submitted by the President of the District Court on 22 February 2006 in reply to the applicants' constitutional complaint (see paragraph 20 above), and as held by the Constitutional Court in its decision of 10 May 2006 (see paragraph 21 above), section 15c(8) of the State-owned Enterprises Act applied to the applicants' enforcement petitions, with an effect that amounted to an actual bar on enforcement.

58. Against this legislative background, and in view of the application of the existing rules in the applicants' case, the exact meaning of the Government's argument to the effect that the applicants could and should have sought the transfer of their enforcement claim to a judicial enforcement officer is not entirely clear (see paragraph 53 above).

In particular, there is no indication that enforcement under the Judicial Enforcement Code would not be barred by the same legislative provisions as enforcement under the CCP.

On the contrary, these legislative provisions appear to apply to the purported enforcement of the applicants' claim under the Judicial Enforcement Code with identical effect as to enforcement under the CCP, especially as section 15c(8) of the State-owned Enterprises Act refers to enforcement under the Judicial Enforcement Code in express terms (see paragraphs 32 to 34 above), while it only applies to enforcement under the CCP by way of implication (see section 21 above).

59. Furthermore, the Government's substantive argument that the applicants should have pursued their claim by way of enforcement under the Judicial Enforcement Code appears to run counter to their submissions with regard to the admissibility of the application (see paragraphs 37 and 38 above), arguing that the applicants should have pursued their claim with the defendant's liquidator under section 15c(2)(a) and (g) of the State-owned Enterprises Act.

60. On the latter point, the Court observes that, contrary to what the Government appear to be suggesting, the applicants did seek compliance with their judgment from the liquidator (see paragraph 13 above). Like the other authorities contacted, however, the latter appears to have ignored the applicants' requests and appeals (see paragraph 13 above).

61. In this context, while acknowledging that the liquidation proceedings effectively constituted a ban to the enforcement of the applicants' claim only from the moment when that claim became enforceable in 1999 (see paragraph 12 above), the Court considers it noteworthy that since 1991 the liquidation proceedings have thus far lasted almost twenty years and are still pending (see paragraph 9 above).

62. Nevertheless, and in any event, as the Court has already noted in paragraph 50 above, the liquidation process in itself is not conceived as official proceedings with established procedural rules, remedies and judicial supervision or other involvement.

63. In the absence of any argument by the Government to that effect, no elements have been established before the Court showing that the applicants might have asserted their adjudicated claim or any possible auxiliary claim by any other means involving a judicial element.

64. It follows that the applicants were simply left without any possibility of recourse to a tribunal within the meaning of Article 6 § 1 of the Convention with a view to having their adjudicated claim enforced.

65. At the same time, no elements have been advanced by the Government or otherwise established by the Court to justify such a lack of access to a court. In particular, in the specific circumstances of the present case, the Court finds no good reasons for impossibility for a private party to obtain enforcement against a State-owned entity, the solvency of which there appears to be no reasons to doubt, of a private-law claim adjudicated by a final and binding judgment, be it on account of inadequate legislation or its lax interpretation and application by the authorities involved.

66. The foregoing considerations are sufficient to enable the Court to conclude that, in the specific circumstances of the present case, there has been a violation of Article 6 § 1 of the Convention.

II. OTHER ALLEGED VIOLATIONS

67. The applicants also alleged a violation of Article 1 of Protocol No. 1 and Article 13 of the Convention concerning the manner in which the courts had dealt with their enforcement petitions, and the impossibility to have an adjudicated claim enforced and to obtain compensation for the unjustified use of their land, despite a final and binding judicial order to that effect. In their observations in reply to those by the Government on the admissibility and merits of the present application, the applicants also relied on Article 14 of the Convention, without providing any detail.

68. In so far as this part of the application has been substantiated, raises any issues separate from those examined above under Article 6 § 1 of the Convention and domestic remedies have been exhausted, the Court finds that it does not disclose any appearance of a violation of the rights and freedoms invoked by the applicants.

It follows that the reminder of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

69. 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

70. The applicants claimed 6,196.91 euros (EUR) and late-payment interest in respect of pecuniary damage, this being the amount awarded to them by the judgment of 21 October 1998 (see paragraph 11 above). They also claimed EUR 10,000 in respect of non-pecuniary damage.

71. As to the former claim, the Government stated that, should the applicants have incurred any pecuniary damage, a potential finding by the Court of a violation of the applicants' Convention rights would provide a basis for reopening the impugned domestic proceedings under Article 228 § 1 (d) of the CCP (see paragraph 35 above), the applicants being able to seek compensation in such reopened proceedings. As to the latter claim, the Government considered it to be excessive.

72. The Court observes, firstly, that, contrary to what the Government appear to be suggesting, pursuant to Article 228 § 1 (d) of the CCP civil proceedings can in principle only be reopened on the ground that the European Court has found a violation of the requesting party's Convention

rights where the civil proceedings in question were concluded by means of a judgment (*rozsudok*) (see paragraph 35 above). The applicants' enforcement case was decided by means of a decision (*uznesenie*) (see paragraphs 14 and 18 above). For this reason alone, irrespective of any possible other reasons, the Government's objection made in reliance on Article 228 § 1 (d) of the CCP must be dismissed.

73. In view of all the circumstances, the Court awards the applicants jointly EUR 10,000, plus any tax that may be chargeable, for all heads of damage taken together.

B. Costs and expenses

74. The applicants also claimed EUR 233.01 for court fees, EUR 99.58 for an advance towards the costs of expert evidence, EUR 165.96 for legal fees for their constitutional complaint and EUR 198.94 for various travel and administrative expenses in connection with the domestic case, as well as the proceedings before the Court.

75. The Government submitted that only such costs and expenses could be reimbursed which have actually and necessarily been incurred and were reasonable as to quantum.

76. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum (see, for example, *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 54, ECHR 2000-XI).

77. In the present case, the amount of EUR 850 has already been paid to Ms Viskupová by way of legal aid for her legal representation before the Court, which has been the same for her and the other applicants (see paragraph 2 above).

In these circumstances, and having regard to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 250, plus any tax that may be chargeable to the applicants, to the four applicants jointly, to cover all remaining costs under all heads.

C. Default interest

78. The Court considers it appropriate that the default interest 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 complaint under Article 6 § 1 of the Convention admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the four applicants jointly, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
 - (i) EUR 10,000 (ten thousand euros), plus any tax that may be chargeable, for all heads of damage taken together;
 - (ii) EUR 250 (two hundred and fifty euros), plus any tax that may be chargeable to the applicants, 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 applicants' claim for just satisfaction.

Done in English, and notified in writing on 11 October 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President