



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

CASE OF LAUKO v. SLOVAKIA

(4/1998/907/1119)

JUDGMENT

STRASBOURG

2 September 1998

In the case of Lauko v. Slovakia¹,

The European Court of Human Rights, sitting, in accordance with Article 43 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) and the relevant provisions of Rules of Court B², as a Chamber composed of the following judges:

Mr R. BERNHARDT, *President*,

Mr F. GÖLCÜKLÜ,

Mr R. PEKKANEN,

Mr D. GOTCHEV,

Mr B. REPIK,

Mr U. LÖHMUS,

Mr J. CASADEVALL,

Mr P. VAN DIJK,

Mr V. BUTKEVYCH,

and also of Mr H. PETZOLD, *Registrar*, and Mr P.J. MAHONEY, *Deputy Registrar*,

Having deliberated in private on 25 May and 28 July 1998,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case was referred to the Court by a Slovakian national, Mr Ivan Lauko (“the applicant”), on 7 January 1998 and by the European Commission of Human Rights (“the Commission”) on 26 January 1998, within the three-month period laid down by Article 32 § 1 and Article 47 of the Convention. It originated in an application (no. 26138/95) against the Slovak Republic lodged with the Commission under Article 25 by the applicant on 13 June 1994.

The Commission’s request referred to Articles 44 and 48 and to the declaration whereby the Slovak Republic recognised the compulsory jurisdiction of the Court (Article 46). The applicant’s application to the Court referred to Article 48 as amended by Protocol No. 9, which Slovakia has ratified. The object of the request and of the application was to obtain a decision as to whether the facts of the case disclosed a breach by the

Notes by the Registrar

1. The case is numbered 4/1998/907/1119. The first number is the case’s position on the list of cases referred to the Court in the relevant year (second number). The last two numbers indicate the case’s position on the list of cases referred to the Court since its creation and on the list of the corresponding originating applications to the Commission.

2. Rules of Court B, which came into force on 2 October 1994, apply to all cases concerning States bound by Protocol No. 9.

respondent State of its obligations under Articles 6 and 13 of the Convention.

2. In response to the enquiry made in accordance with Rule 35 § 3 (d) of Rules of Court B, the applicant stated that he wished to take part in the proceedings. Having originally been designated by the initials I.L., the applicant subsequently agreed to the disclosure of his name. On 25 March 1998 the President of the Court, Mr R. Bernhardt, granted him leave to present his own memorial to the Court.

3. On 31 January 1998 Mr Bernhardt, the Vice-President of the Court at the time, had decided, under Rule 21 § 7 and in the interests of the proper administration of justice, that a single Chamber should be constituted to consider both the instant case and the case of *Kadubec v. Slovakia*¹.

4. The Chamber to be constituted for that purpose included *ex officio* Mr B. Repik, the elected judge of Slovakian nationality (Article 43 of the Convention), and Mr R. Ryssdal, the then President of the Court (Rule 21 § 4 (b)). On 31 January 1998, in the presence of the Registrar, the Vice-President of the Court drew by lot the names of the other seven members, namely Mr F. Gölcüklü, Mr F. Matscher, Mr R. Pekkanen, Mr U. Löhmus, Mr J. Casadevall, Mr P. van Dijk and Mr V. Butkevych (Article 43 *in fine* of the Convention and Rule 21 § 5). Subsequently Mr Bernhardt replaced Mr Ryssdal, who died on 18 February 1998, as President of the Chamber (Rule 21 § 6, second sub-paragraph) and Mr D. Gotchev, a substitute judge, replaced Mr Matscher who was unable to take part in the further consideration of the case (Rule 22 §§ 1 and 2 and Rule 24 § 1).

5. As President of the Chamber at the time (Rule 21 § 6), Mr Ryssdal, acting through the Registrar, had consulted the Agent of the Slovakian Government ("the Government"), the applicant and the Delegate of the Commission on the organisation of the proceedings (Rules 39 § 1 and 40). Pursuant to the order made in consequence, the Registrar received the memorials of the Government and the applicant on 14 April 1998, the President having decided on 25 March 1998 and 3 April 1998 respectively to accede to the applicant's and the Government's requests for extensions of the time-limits for the submission of their memorials.

6. On 12 May 1998 the President decided to grant legal aid to the applicant (Rule 4 of the Addendum to the Rules of the Court).

7. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 22 May 1998. The Court had held a preparatory meeting beforehand.

1. Case no. 5/1998/908/1120.

There appeared before the Court:

(a) *for the Government*

Mr R. FICO, Doctor of Laws,
Ministry of Justice, *Agent*,
Mrs Z. KUPCOVÁ, staff member, Office of the Agent,
Mr M. JEŽOVICA, Director, Human Rights Section,
Ministry of Foreign Affairs,
Mrs V. STRÁŽNICKÁ, Permanent Representative of Slovakia
to the Council of Europe,
Mr P. KORMUTH, Deputy to the Permanent Representative of
Slovakia to the Council of Europe, *Advisers*;

(b) *for the Commission*

Mr D. ŠVÁBY, *Delegate*.

The Court heard addresses by Mr Šváby and Mr Fico.

AS TO THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

8. The applicant was born in 1953 and lives in Považská Bystrica, Slovakia.

9. In June 1992 he requested, pursuant to newly adopted legislation, that a flat in which he lived and which was located in a block of flats in Dubnica nad Váhom, Slovakia should be sold to him.

10. The applicant alleged that his neighbours and other individuals subsequently disturbed him by their noisy behaviour, mockery and threats. On several occasions the door and windows of his flat and his letter box were damaged. The applicant considers that the purpose of those interferences was to dissuade him from buying the flat.

11. On several occasions the applicant asked the police department in Dubnica nad Váhom to investigate the disturbances and to prosecute the persons responsible. He cited, *inter alia*, family B. The police informed him that the facts he had complained of could not be established and that accordingly the investigation of his complaints had been closed. On 15 April 1994 the police department, acting pursuant to section 63 of the 1990 Minor Offences Act, notified the Dubnica nad Váhom local office (*Obvodný úrad*) about the complaints brought by the applicant (see paragraph 31 below).

12. On 11 May 1994 the local office found that the applicant had committed a minor offence (*priestupok*) under section 49(1)(d) of the Minor Offences Act in that without justification he had accused family B. of causing a nuisance. The decision was based on the evidence submitted by the police department in Dubnica nad Váhom and on the facts which were established in the course of the proceedings before the local office.

13. The applicant was fined 300 Slovakian korunas (SKK) and ordered to pay SKK 150 in respect of the costs of the proceedings. The decision of the local office was signed by the head of its legal department. The applicant appealed against that decision to the Považská Bystrica district office (*Okresný úrad*).

14. On 28 July 1994 the district office dismissed the appeal and upheld the decision of the local office. The applicant's case was examined by the legal department of the district office which rejected his appeal in a decision signed by the head of that department.

15. On 16 August 1994 the applicant brought a complaint before the Constitutional Court (*Ústavný súd*). In his submissions to that court he alleged, *inter alia*, a violation of Article 6 of the Convention in that there had been no fair and public hearing in his case and that the administrative authorities dealing with it had not been impartial.

16. On 24 November 1994 the Constitutional Court dismissed the applicant's complaint as being manifestly ill-founded. It held, *inter alia*:

“A minor offence is characterised, in general, by a wrongful breach of law or legal obligations in different spheres of public administration which represents a minor danger to the society. Because of its character, a minor offence is not subject to examination by a court... In accordance with the Minor Offences Act, the examination of minor offences falls within the competence of administrative authorities. Pursuant to section 83 of the Minor Offences Act, in conjunction with Articles 244 et seq. of the Code of Civil Procedure, the lawfulness of administrative organs' decisions on minor offences can be reviewed by courts only in cases where a fine exceeding SKK 2,000 has been imposed, the exercise of a certain activity has been prohibited for a period exceeding six months or an object of a value exceeding SKK 2,000 has been confiscated. The aforesaid provision of the special Act governing minor offences is fully binding also on the Constitutional Court of the Slovak Republic.”

17. On 2 July 1997 the Constitutional Court rejected the applicant's request for the review of its decision of 24 November 1994.

II. RELEVANT DOMESTIC LAW

A. The Constitution

18. Article 46 § 2 of the Constitution guarantees to everyone who claims to have been denied his rights as a result of a decision made by a public administrative authority the right to appeal to a court of law and have the

legality of the decision reviewed, unless otherwise provided by law. The review of decisions on matters of fundamental rights and freedoms may not be excluded from the jurisdiction of courts of law.

19. Article 121 entitles the government to grant pardons in matters concerning minor offences.

20. Pursuant to Article 127 the Constitutional Court decides on complaints concerning final decisions made by, *inter alia*, local government authorities and local self-governing bodies in cases concerning violations of the fundamental rights and freedoms of citizens, unless the protection of such rights falls under the jurisdiction of another court.

B. The 1990 Minor Offences Act

21. At the time of the offence the legislation read as follows.

22. Section 1 of the Minor Offences Act defines its purpose in the following terms:

“Administrative authorities of the Slovak Republic and municipal organs shall encourage citizens to respect legal rules and the rights of other citizens. They shall ensure, in particular, that citizens do not impede the conduct of the administration ... and contravene public order and civic propriety.”

23. Section 2(1) provides the following definition of a minor offence:

“A minor offence is a wrongful act which interferes with or causes danger to the public interest and is expressly classified as a minor offence in this Act or another law, unless such an act represents a separate administrative offence punishable under special legal rules or a criminal offence.”

24. Section 11 entitles the competent authorities to impose sanctions (*sankcie*) on the perpetrators of minor offences. It reads as follows:

“(1) The following sanctions may be imposed for a minor offence:

- (a) reprimand,
- (b) fine,
- (c) prohibition to exercise a certain activity,
- (d) confiscation of an object.

(2) A sanction can be imposed either separately or in combination with another sanction; a reprimand cannot be combined with a fine.

(3) It is permissible to decide not to impose a sanction if the mere fact that the minor offence was examined is sufficient to reform its perpetrator.”

25. Section 12(1), as relevant, provides:

“When determining the type and amount of the sanction, the seriousness of the minor offence and, in particular, the way and the circumstances in which it was

committed, its consequences, the degree of guilt, the motive and the character of the perpetrator including whether or not he or she has already been punished for the same act in ... disciplinary proceedings should be taken into account.”

26. Section 49 of the Act governs minor offences against civic propriety. Pursuant to section 49(1)(d) a minor offence is committed by a person who deliberately offends against civic propriety by threat of bodily harm, by causing minor bodily injury, by unjustifiably accusing another person of a minor offence, by annoyances or other rude behaviour. Under section 49(2) such a minor offence is punishable with a maximum fine of SKK 3,000.

27. According to section 51 the proceedings concerning minor offences are governed, unless otherwise provided, by the Administrative Proceedings Act.

28. Section 52 provides that the following administrative authorities are entitled to examine minor offences: (i) local offices, (ii) police authorities if a minor offence was committed in breach of the generally binding legal rules relating to the security of road traffic and (iii) other organs of State administration if a special law so provides.

29. Pursuant to section 58(4)(b) cases involving minor offences against civic propriety, which are directed against the security of persons, are investigated by the police authorities subordinated to the Ministry of the Interior.

30. Section 59(1) provides that minor offences are to be investigated either on the basis of an investigation carried out by the competent police authority or upon a notification submitted by an individual, an organisation or an authority.

31. Under section 63(1) the police authority should submit to the competent administrative organ a report on the outcome of its investigation of a case. Such a report ought to comprise, *inter alia*, a description of the relevant facts and specify which minor offence they are alleged to constitute.

32. Section 73 reads as follows:

“(1) A citizen is accused of a minor offence as soon as the administrative authority has taken the first procedural step against him or her. Such a person shall be considered innocent until his or her guilt has been established by a final decision.

(2) A person accused of a minor offence has the right to comment on all facts that are imputed to him or her as well as on the evidence related to these facts, to present facts and evidence in his or her defence, make submissions and have recourse to remedies. He or she cannot be forced to make statements or to plead guilty.”

33. Section 77, as relevant, provides:

“The operative part of a decision by which an accused of a minor offence is found guilty shall comprise also the description of the act including the place and time when the minor offence was committed, the finding of guilt, the type and amount of the sanction or, as the case may be, the decision not to impose a sanction...”

34. According to section 83(1) decisions on minor offences imposing a fine exceeding SKK 2,000, prohibiting the exercise of a certain activity for a period exceeding six months or confiscating an object having a value exceeding SKK 2,000 can be reviewed by the courts. In such cases the provisions of Articles 244 et seq. of the Code of Civil Procedure on administrative jurisdiction are applied.

C. The 1990 Law on local State administration

35. Section 1(1) of Law no. 472/1990 on the Organisation of Local State Administration, as amended, empowers district offices and local offices to carry out local administration falling within the competence of the State. The exercise of local administration by the aforesaid authorities is managed and controlled by the government.

36. Under section 6(1) the head of a local office is appointed and dismissed by the head of a district office.

37. According to section 8(1) the head of a district office is appointed by the government on the proposal of the Ministry of the Interior.

38. The officers of local and district offices are subordinated to the heads of those offices and their contracts of employment are governed, as in the case of other salaried employees, by the provisions of the Labour Code.

39. In 1996 this Law was repealed and replaced by Law no. 222/1996 on the Organisation of Local State Administration.

D. The Code of Civil Procedure

40. Under the terms of Article 135 § 1 of the Code of Civil Procedure civil courts are bound, *inter alia*, by the decisions of the competent authorities that a criminal offence, a minor offence or another administrative offence punishable under special rules has been committed.

E. The Criminal Code

41. Article 3 § 1 of the Criminal Code defines a criminal offence as an act which is dangerous to society and whose characteristics are laid down in the Criminal Code. However, according to Article 3 § 2, an act whose dangerousness is negligible is not a criminal offence even if it has its attributes.

42. According to Article 3 § 4 the degree of dangerousness of an act is determined, in particular, by the importance of the protected interest affected by that act, by the circumstances and the way in which the act was committed and its consequences as well as by the character of its perpetrator, the degree of his guilt and his motives.

43. The Criminal Code refers to repressive measures imposed for committing a criminal offence as penalties (*tresty*).

PROCEEDINGS BEFORE THE COMMISSION

44. Mr Lauko applied to the Commission on 13 June 1994. He raised several complaints under Articles 1, 3, 6, 8, 10, 13 and 14 of the Convention. He complained in particular that his right to a hearing by an independent and impartial tribunal had been violated in the proceedings before the local and district offices which had resulted in the imposition of a fine on him. He also complained about the violation of his right to freedom of expression as he had been fined for making statements about his neighbours. The applicant further complained about several violations of his rights by different individuals and the failure of the Slovakian authorities to secure his right to respect for his private life and to prosecute individuals allegedly responsible for the violations.

45. On 19 October 1995 the Commission decided to adjourn the examination of the applicant's complaints under Articles 6, 13 and 14 concerning the proceedings leading to the imposition of the fine and dismissed the remainder of the application. On 21 October 1996 the Commission declared the application (no. 26138/95) admissible with the exception of the applicant's complaint under Article 14 of the Convention. In its report of 30 October 1997 (Article 31), it expressed the unanimous opinion that there had been a violation of Article 6 § 1 and that no separate issue arose under Article 13. The full text of the Commission's opinion is reproduced as an annex to this judgment¹.

FINAL SUBMISSIONS TO THE COURT

46. The applicant in his memorial requested the Court to find that the facts of the case disclosed violations of Articles 3, 6 § 1, 8, 13 and 14 of the Convention and to award him just satisfaction under Article 50.

The Government for their part requested the Court to find that Article 6 § 1 was not applicable in the case.

1. *Note by the Registrar.* For practical reasons this annex will appear only with the printed version of the judgment (in *Reports of Judgments and Decisions* 1998), but a copy of the Commission's report is obtainable from the registry.

AS TO THE LAW

I. SCOPE OF THE CASE

47. In his memorial to the Court the applicant raised several complaints under Articles 3, 6 § 1, 8, 13 and 14 of the Convention. The Court observes that only the applicant's complaints under Articles 6 § 1 and 13 concerning the proceedings leading to the imposition of a fine were declared admissible by the Commission (see paragraphs 44–45 above).

48. The Court must therefore confine its examination to the applicant's complaints under Articles 6 § 1 and 13 (see, *mutatis mutandis*, the McGinley and Egan v. the United Kingdom judgment of 9 June 1998, *Reports of Judgments and Decisions* 1998-III, pp. 1354–55, §§ 68–70).

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

49. The applicant maintained that the absence of any judicial review of the decision imposing a fine on him constituted a violation of his right to a hearing by an independent and impartial tribunal established by law. He relied on Article 6 § 1 of the Convention, which provides as relevant:

“In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing ... by an independent and impartial tribunal established by law...”

50. The Commission agreed with the applicant's arguments whereas the Government contended that Article 6 § 1 was not applicable to the impugned proceedings.

A. Applicability of Article 6 § 1

1. *Arguments before the Court*

51. The Government disputed the applicability of Article 6 § 1 to the proceedings before local and district offices since in their view they did not involve the determination of a “criminal charge” against the applicant. They submitted that the instant case should be distinguished from the other cases decided by the Court in which Article 6 § 1 was found to be applicable since it involved an offence of a minor nature which could not lead to imprisonment and was not described as criminal by the Slovakian legislation, legal theory and practice. The Government also submitted that the Commission had erroneously described the breach of law of which the applicant had been convicted as a “minor offence” whereas it should in fact be referred to as an “administrative infraction” since it had always been treated under Slovakian law as a part of administrative law.

52. In support of the above contention the Government maintained that the minor offence in question was not of a criminal nature as it gave rise to sanctions which were preventive and educational in nature and which could be applied at the discretion of administrative authorities (see paragraph 24 above). It was not punishable by imprisonment and commission of such an offence was not entered on a criminal record (see paragraph 24 above). Unlike criminal offences, it did not result in the more severe penalties imposed on habitual offenders and was subject to a shorter statutory limitation period. None of the restrictions on personal freedom typical of criminal proceedings applied to the minor offence committed by the applicant; nor did criminal responsibility extend to preparatory acts and attempts to commit such an offence. The Government also pointed to the fact that the penalty imposed on the applicant was not a severe one as it was equal to one-twentieth of the average monthly income.

53. The Commission considered that Article 6 § 1 was applicable in the instant case. Although it found that domestic law did not classify as criminal the minor offence for which the applicant had been fined, it pointed out that this had only a relative significance. The Commission noted the general character of the legal rule infringed by the applicant (see paragraphs 23 and 26 above). Furthermore, the penalties imposed on those who committed minor offences are intended to deter and are of a punitive nature. The Minor Offences Act contains several procedural guarantees such as the presumption of innocence and the right to remain silent which are indicative of the criminal nature of minor offences (see paragraph 32 above). Under the Act the operative part of the decision on the guilt of an accused comprises, *inter alia*, the fact of conviction and the determination of the sanction (see paragraph 33 above). Significantly, both the Minor Offences Act and the Criminal Code use the same approach in this respect (see paragraph 25 above).

54. The Commission further observed that the criminal nature of the offence in question was also illustrated by the fact that section 49(1) (d) of the Act under which the applicant had been convicted and sentenced classified as minor offences a threat of bodily harm causing minor injury and rude behaviour (see paragraph 26 above). Sentences imposed for minor offences and criminal offences produce similar effects for the purpose of civil proceedings since civil courts are bound by the decisions of administrative authorities concerning convictions for minor offences in the same way as for convictions for criminal offences (see paragraph 40 above). Finally, the Commission noted that under the Constitution there existed the possibility of granting pardons in relation to minor offences (see paragraph 19 above). For these reasons in particular the minor offence committed by the applicant was of a criminal nature and Article 6 was therefore applicable in the case.

55. The applicant endorsed the Commission's reasoning and conclusion.

2. *The Court's assessment*

56. The Court recalls at the outset that in order to determine whether an offence qualifies as “criminal” for the purposes of the Convention, the first matter to be ascertained is whether or not the text defining the offence belongs, in the legal system of the respondent State, to the criminal law; next, the nature of the offence and, finally, the nature and degree of severity of the penalty that the person concerned risked incurring must be examined, having regard to the object and purpose of Article 6, to the ordinary meaning of the terms of that Article and to the laws of the Contracting States (see, among other authorities, the *Garyfallou AEBE v. Greece* judgment of 24 September 1997, *Reports* 1997-V, p. 1830, § 32).

57. The Court notes, and it was not disputed by those appearing before it, that it is apparent from sections 2(1) and 49 of the Minor Offences Act that the minor offence of which the applicant was convicted is not characterised under domestic law as “criminal” (see paragraphs 23 and 26 above). However, the indications furnished by the domestic law of the respondent State have only a relative value (see the *Öztürk v. Germany* judgment of 21 February 1984, Series A no. 73, p. 19, § 52).

It is therefore necessary to examine the minor offence in the light of the second and third criteria mentioned above (see paragraph 56). In this respect, the Court recalls that these criteria are alternative and not cumulative: for Article 6 to apply by virtue of the words “criminal charge”, it suffices that the offence in question should by its nature be “criminal” from the point of view of the Convention, or should have made the person concerned liable to a sanction which, by its nature and degree of severity, belongs in general to the “criminal” sphere (see, *inter alia*, the *Lutz v. Germany* judgment of 25 August 1987, Series A no. 123, p. 23, § 55). This does not exclude that a cumulative approach may be adopted where the separate analysis of each criterion does not make it possible to reach a clear conclusion as to the existence of a “criminal charge” (see, among other authorities, the above-mentioned *Garyfallou AEBE* judgment, p. 1830, § 33; and the *Bendenoun v. France* judgment of 24 February 1994, Series A no. 284, p. 20, § 47).

58. As regards the nature of the offence committed by the applicant, the Court recalls that he was convicted under section 49(1)(d) of the Minor Offences Act of accusing, without justification, his neighbours of causing a nuisance and was sentenced to a fine on that account (see paragraph 12 above). That provision regulates minor offences against civic propriety and is designed to keep the peace between neighbours (see paragraph 26 above). Accordingly, the legal rule infringed by the applicant is directed towards all citizens and not towards a given group possessing a special status. The general character of the legal rule in question is further confirmed by section 1 of the Minor Offences Act which refers to the fact that all citizens must ensure respect for legal rules and the rights of other citizens and also

by section 2(1) of the same Act which defines a minor offence as a wrongful act which interferes with or causes danger to the public interest (see paragraphs 22 and 23 above; and the above-mentioned Öztürk judgment, p. 20, § 53).

Furthermore, Mr Lauko was sentenced by the local office to a fine and ordered to pay the costs of the proceedings (see paragraph 13 above). The fine imposed on the applicant was intended as a punishment to deter reoffending. It has a punitive character, which is the customary distinguishing feature of criminal penalties (see the above-mentioned Öztürk judgment, p. 20, § 53; and the A.P., M.P. and T.P. v. Switzerland judgment of 29 August 1997, *Reports* 1997-V, p. 1488, § 41).

The Government contended (see paragraph 52 above) that the minor offence in issue had several features which distinguished it from offences within the realm of the criminal law *stricto sensu*. However, the elements relied on by the Government such as the fact that the commission of the offence is not punishable by imprisonment and is not entered on the criminal record are not decisive of the classification of the offence for the purpose of the applicability of Article 6 § 1 (see the above-mentioned Öztürk judgment, pp. 20–21, § 53).

In sum, the general character of the legal provision infringed by the applicant together with the deterrent and punitive purpose of the penalty imposed on him, suffice to show that the offence in question was, in terms of Article 6 of the Convention, criminal in nature. Accordingly, there is no need to examine it also in the light of the third criterion stated above (see paragraphs 56–57 above). The relative lack of seriousness of the penalty at stake cannot deprive an offence of its inherently criminal character (see the above-mentioned Öztürk judgment, p. 21, § 54).

59. In the light of the foregoing, the Court considers that Article 6 § 1 is applicable in the instant case.

B. Compliance with Article 6 § 1

1. Arguments before the Court

60. The Commission noted that the bodies which had dealt with the applicant's case had been under government control and that the officers of those bodies had lacked the appearance of independence. As the decisions of the local and district offices could not be reviewed by a judicial body providing the guarantees of Article 6 § 1, the Commission concluded that it had been violated.

61. The Government did not comment on the compliance of the proceedings in question with Article 6 § 1.

62. The applicant endorsed the Commission's reasoning and conclusion.

2. *The Court's assessment*

63. The Court recalls at the outset that the right to a fair trial, of which the right to a hearing before an independent tribunal is an essential component, holds a prominent place in a democratic society (see, *mutatis mutandis*, the *De Cubber v. Belgium* judgment of 26 October 1984, Series A no. 86, p. 16, § 30 *in fine*). In order to determine whether a body can be considered to be “independent” of the executive it is necessary to have regard to the manner of appointment of its members and the duration of their term of office, the existence of guarantees against outside pressures and the question whether the body presents an appearance of independence (see, *inter alia*, the *Le Compte, Van Leuven and De Meyere v. Belgium* judgment of 23 June 1981, Series A no. 43, p. 24, § 55, and the *Campbell and Fell v. the United Kingdom* judgment of 28 June 1984, Series A no. 80, pp. 39–40, § 78).

64. The Court notes that the Dubnica nad Váhom local office and the Považská Bystrica district office are charged with carrying out local state administration under the control of the government (see paragraph 35 above). The appointment of the heads of those bodies is controlled by the executive and their officers, whose employment contracts are governed by the provisions of the Labour Code, have the status of salaried employees (see paragraphs 36–38 above). Therefore, the manner of appointment of the officers of the local and district offices together with the lack of any guarantees against outside pressures and any appearance of independence clearly show that those bodies cannot be considered to be “independent” of the executive within the meaning of Article 6 § 1 of the Convention.

While entrusting the prosecution and punishment of minor offences to administrative authorities is not inconsistent with the Convention, it is to be stressed that the person concerned must have an opportunity to challenge any decision made against him before a tribunal that offers the guarantees of Article 6 (see the above-mentioned *Öztürk* judgment, pp. 21–22, § 56). In the instant case, however, the applicant was unable to have the decisions of the local and district offices reviewed by an independent and impartial tribunal since his complaint was dismissed by the Constitutional Court on the ground that the minor offence in issue could not be examined by a court (see paragraphs 16–17 above).

Having regard to the above the Court considers that there has been an infringement of the applicant's right to a hearing by an independent and impartial tribunal.

65. There has accordingly been a violation of Article 6 § 1.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

66. The applicant also submitted that he had no effective remedy to redress the alleged violation of Article 6 § 1. He relied on Article 13 of the Convention, which provides:

“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.”

67. The Government did not comment on the complaint.

68. The Court observes that the requirements of Article 13 are less strict than, and are here absorbed by, those of Article 6 (see, *mutatis mutandis*, the *Kamasinski v. Austria* judgment of 19 December 1989, Series A no. 168, pp. 45–46, § 110). Accordingly, having regard to its conclusion under Article 6, the Court, like the Commission, does not consider it necessary also to examine the case under Article 13.

IV. APPLICATION OF ARTICLE 50 OF THE CONVENTION

69. The applicant claimed just satisfaction under Article 50 of the Convention, which provides:

“If the Court finds that a decision or a measure taken by a legal authority or any other authority of a High Contracting Party is completely or partially in conflict with the obligations arising from the ... Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Non-pecuniary damage

70. The applicant sought 1,000,000 Slovakian korunas (SKK) for non-pecuniary damage. He maintained that as a result of the violation of his rights he had lost his job and social position and this had adversely affected his health.

71. The Government did not comment on the claim. The Delegate of the Commission considered that any award should be left to the discretion of the Court.

72. Having regard to the circumstances of the instant case, the Court, deciding on an equitable basis, awards the applicant the sum of SKK 5,000.

B. Costs and expenses

73. The applicant requested the Court to award him the sum of SKK 52,046 in respect of costs which he incurred in the domestic and Strasbourg proceedings.

74. The Government did not comment on this claim. The Delegate of the Commission considered that any award should be left to the discretion of the Court.

75. The Court notes that the applicant was not represented in the proceedings before the Convention institutions. However, he must have incurred expenses in providing his written pleadings. Deciding on an equitable basis, the Court awards the applicant the sum of SKK 1,000.

C. Other claims

76. The applicant also submitted several claims concerning, *inter alia*, the annulment of the decisions of the domestic authorities, the punishment of persons who had allegedly committed crimes against him and directing the respondent Government to give several undertakings.

77. The Court observes that it has no jurisdiction under the Convention to order these measures (see, *mutatis mutandis*, the Socialist Party and Others v. Turkey judgment of 25 May 1998, *Reports* 1998-III, p. 1267, §§ 62–63).

D. Default interest

78. According to the information available to the Court, the statutory rate of interest applicable in Slovakia at the date of adoption of the present judgment is 17.6% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that Article 6 § 1 of the Convention is applicable in the present case and has been violated;
2. *Holds* that it is not necessary also to examine the case under Article 13 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant within three months:
 - (i) 5,000 (five thousand) Slovakian korunas in respect of non-pecuniary damage;

- (ii) 1,000 (one thousand) Slovakian korunas in respect of costs and expenses;
 - (b) that simple interest at an annual rate of 17.6% shall be payable from the expiry of the above-mentioned three months until settlement;
4. *Rejects* the remainder of the applicant's claims for just satisfaction.

Done in English and French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 2 September 1998.

Signed: Rudolf BERNHARDT
President

Signed: Herbert PETZOLD
Registrar