



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

FOURTH SECTION

**CASE OF POLOVKA v. SLOVAKIA**

*(Application no. 41783/98)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

21 January 2003

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



**In the case of Polovka v. Slovakia,**

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

Sir Nicolas BRATZA, *President*,

Mr M. PELLONPÄÄ,

Mr A. PASTOR RIDRUEJO,

Mrs V. STRÁŽNICKÁ,

Mr R. MARUSTE,

Mr S. PAVLOVSKI,

Mr L. GARLICKI, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 17 December 2002,

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

**PROCEDURE**

1. The case originated in an application (no. 41783/98) against the Slovak Republic lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Slovakian national, Mr František Polovka ("the applicant"), on 9 April 1998.

2. The Government of the Slovak Republic ("the Government") were represented by Mr P. Vršanský, their Agent.

3. The applicant complained about the length of civil proceedings.

4. The case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention.

5. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Fourth Section.

6. On 14 May 2002, after obtaining the parties' observations, the Court declared the application partially admissible.

7. On 22 May 2002, after an exchange of correspondence, the Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 17 September 2002 and on 26 September 2002 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

## THE FACTS

8. On 19 March 1993 the applicant challenged the lawfulness of his dismissal from a job and claimed compensation before the Poprad District Court.

9. On 15 April 1993 the District Court suspended the proceedings. The decision stated that on 5 February 1993 the applicant had been accused of an offence and that the criminal court's decision was relevant when determining the applicant's above civil action.

10. On 3 May 1993 the applicant appealed against the decision to suspend the proceedings. On 31 May 1993 the case file was submitted to the Košice Regional Court for a decision on the applicant's appeal. On 24 August 1993 the Regional Court returned the case file to the District Court. The Regional Court qualified the applicant's submissions as a procedural motion and held that it was to be decided upon by the District Court.

11. On 27 August 1993 the Poprad District Court invited the applicant to submit further information as regards his submission of 3 May 1993. The applicant did not reply and on 29 November 1993 the District Court again submitted the case file to the Košice Regional Court. On 23 September 1994 the Košice Regional Court returned the case to the District Court and instructed the latter to decide on the applicant's request.

12. On 10 October 1994 the District Court scheduled a hearing for 16 November 1994. On 2 November 1994 the applicant requested that the case be adjourned until the delivery of a decision on his petition for a complaint in the interest in the law to be lodged on his behalf in the criminal proceedings.

13. On 9 January 1995, 2 June 1995, 2 October 1995 and on 4 January 1996 the Poprad District Court inquired whether a decision had been delivered on the above extraordinary remedy in the criminal proceedings. On 20 January 1995, 12 June 1995, 5 October 1995 and on 11 January 1996 respectively the applicant replied that the Ministry of Justice had not yet decided on his petition.

14. On 5 March 1996 the criminal file concerning the applicant's case was returned to the Poprad District Court. On 2 April 1996 the applicant requested the District Court to take further evidence in the proceedings concerning his action.

15. On 17 April 1996 the Poprad District Court dismissed the action. The applicant appealed on 27 May and on 4 June 1996. On 28 June 1996 the case file was submitted to the Košice Regional Court.

16. On 14 October 1997 the applicant was summoned to appear at a hearing before the Košice Regional Court scheduled for 31 October 1997. On the latter date the applicant and his lawyer were informed that the hearing had been held in the absence of the parties and that the appeal had

been dismissed on 21 October 1997. The Regional Court's judgment was served on 2 February 1998.

17. In a letter of 31 March 1998 the president of the Košice Regional Court admitted that the applicant's complaint about the length of the proceedings was partially justified. The letter further stated that the applicant had not been summoned to the hearing held on 21 October 1997 due to an administrative mistake.

18. In the meantime, on 16 February 1998, the applicant lodged an appeal on points of law with the Supreme Court. On 26 May 1998 the latter quashed the appellate court's judgment on the ground that the applicant had not been duly summoned to the hearing of 21 October 1997. The case file was returned to the Regional Court on 15 June 1998.

19. A hearing before the Regional Court was scheduled for 23 November 1999. On 22 November 1999 the applicant's lawyer informed the Regional Court that he no longer represented the applicant. As the applicant had not been notified in person of the hearing, the case was adjourned. Another hearing scheduled for 14 December 1999 had to be adjourned as the applicant was ill.

20. On 15 February 2000 the Košice Regional Court upheld the Poprad District Court's judgment of 17 April 1996.

21. On 30 March 2000 the applicant filed an appeal on points of law to the Supreme Court. On 19 April 2000 the latter sent the appeal on points of law to the Poprad District Court for further action. On 28 April 2000 the District Court invited the applicant to appoint a lawyer to represent him in the proceedings before the Supreme Court within fifteen days. The applicant did not reply. The case file was submitted to the Supreme Court on 7 June 2000.

22. On 27 June 2000 the Supreme Court discontinued the proceedings as the applicant had failed to comply with the formal requirements.

## THE LAW

23. On 26 September 2002 the Court received the following declaration from the Government:

"I declare that, with a view to securing a friendly settlement of the above-mentioned case, the Government of the Slovak Republic offer to pay 150,000 (one hundred and fifty thousand) Slovakian korunas to Mr František Polovka. This sum is to cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable within three months from the date of delivery of the judgment by the Court pursuant to the Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

The Government further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention."

24. On 17 September 2002 the Court received the following declaration signed by the applicant:

“I note that the Government of the Slovak Republic are prepared to pay me the sum of 150,000 (one hundred and fifty thousand) Slovakian korunas covering pecuniary and non-pecuniary damage and costs with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

I accept the proposal and waive any further claims against the Slovak Republic in respect of the facts of this application. I declare that this constitutes a final settlement of the case.

This declaration is made in the context of a friendly settlement which the Government and I have reached.

I further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after delivery of the Court’s judgment.”

25. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

26. Accordingly, the case should be struck out of the list.

## FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;
2. *Takes note* of the parties’ undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 21 January 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O’BOYLE  
Registrar

Nicolas BRATZA  
President