



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

FOURTH SECTION

CASE OF JAMRIŠKA v. SLOVAKIA

(Application no. 51559/99)

JUDGMENT

STRASBOURG

14 October 2003

FINAL

24/03/2004

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Jamriška v. Slovakia,

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

Sir Nicolas BRATZA, *President*,

Mr M. PELLONPÄÄ,

Mrs V. STRÁŽNICKÁ,

Mr R. MARUSTE,

Mr S. PAVLOVSCHI,

Mr L. GARLICKI,

Mr J. BORREGO BORREGO, *judges*,

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

Having deliberated in private on 23 September 2003,

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

PROCEDURE

1. The case originated in an application (no. 51559/99) 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 Slovakian national, Mr Ladislav Jamriška ("the applicant"), on 14 January 1999.

2. The Slovakian Government ("the Government") were represented by their Agent, Mr P. Vršanský, succeeded by Mr P. Kresák as from 1 April 2003.

3. On 18 June 2002 the Fourth Section declared the application partly inadmissible and decided to communicate the complaint concerning the length of the proceedings to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

4. The applicant was born in 1938 and lives in Partizánske.

5. The applicant proposed two technological improvements to the company in which he worked. They were not accepted.

6. On 21 November 1989 the applicant filed an action with the Topoľčany District Court. He claimed the protection of his intellectual property in that his above proposals were not accepted.

7. On 14 February 1990 the applicant amended his action in that he claimed that one of the technological improvements proposed by him was submitted prior to other proposals concerning the same issue submitted by

other persons, and that he should be compensated for both improvements proposed by him.

8. On 21 January 1991 the District Court dismissed the applicant's action after having ordered two expert opinions. On 20 March 1991 the Bratislava Regional Court quashed this decision on the ground that the first instance court had failed to establish the facts correctly and that it had proceeded erroneously.

9. On 18 July 1991 and on 30 September 1991 the appellate court dismissed the applicant's requests for the exclusion of the District Court judges.

10. On 5 December 1991 the District Court appointed an expert. On 25 February 1992 the expert informed the District Court that he had a heavy workload and that he would be able to submit the opinion only after 21 April 1992. Subsequently the District Court repeatedly urged the expert to submit the opinion. The opinion was submitted on 23 November 1992. On 14 December 1992 the applicant submitted his comments on the opinion. On 14 January 1993 he challenged the District Court judge. The Nitra branch office of the Bratislava Regional Court dismissed the applicant's request for exclusion of the District Court judge on 26 February 1993.

11. On 15 September 1993 the case was adjourned as the defendant and the expert did not appear. The expert subsequently died.

12. On 23 May 1994 the District Court appointed an expert. The latter submitted the opinion on 8 December 1994.

13. On 25 January 1995 the Topoľčany District Court delivered an interim judgment in which it found, with reference to two expert opinions, that the applicant's proposal concerning the circulation of air in the defendant company was to be given priority. The District Court further dismissed the claim for compensation concerning the applicant's second proposal.

14. The defendant appealed on 6 March 1995, and on 13 July 1995 the Nitra branch office of the Bratislava Regional Court quashed the first instance judgment to the extent that it had allowed the applicant's claim for his proposal to be given priority. The decision stated that the first instance court had failed to follow the instructions set out in the Regional Court's above decision of 20 March 1991.

15. On 26 October 1995 the District Court heard the experts with a view to clarifying the differences in their conclusions. On 7 January 1996 it obtained a third expert's opinion. Hearings were held on 22 February 1996 and on 6 March 1996.

16. Between 11 March and 9 September 1996 the case file was examined by the Constitutional Court.

17. On 28 October 1996 the Topoľčany District Court dismissed the remainder of the applicant's action.

18. On 11 December 1996 the applicant appealed and claimed that the decision was arbitrary. He also challenged the District Court judge.

19. On 28 February 1997 the Constitutional Court found that the Topoľčany District Court had violated the applicant's constitutional right to have his case examined without undue delay. In its finding the Constitutional Court admitted that the case was complex from the legal point of view. It found no particular delays in the proceedings which should be imputed to the applicant and held that the District Court had failed to proceed with the case in an effective manner as required by the relevant provisions of the Code of Civil Procedure. The decision stated, in particular, that there had been shortcomings in the judge's work which had caused excessive delays in the proceedings.

20. On 30 June 1997 the appellate court adjourned the case as the applicant had challenged its judges dealing with the case. On 27 October 1997 the Supreme Court dismissed the applicant's request for exclusion of the judges.

21. On 20 January 1998 the Nitra Regional Court upheld the District Court's finding that the applicant was not entitled to compensation for the proposal in question as it was neither genuine nor did it resolve the technical problem in question as required by the relevant law. The Regional Court further discontinued the proceedings as regards the applicant's claim that his proposal should be given priority as it was outside the courts' jurisdiction. Finally, the Regional Court upheld the District Court's decision on the expert's fees and decided that the District Court judge involved was not biased. The Regional Court's judgment was served on the applicant on 4 August 1998.

THE LAW

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

22. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement 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..."

23. The Government admitted that the complaint was not manifestly ill-founded.

24. The period to be taken into consideration began only on 18 March 1992, when the recognition by the Czech and Slovak Federal Republic, to which Slovakia is one of the successor states, of the right of individual

petition took effect. However, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at that time.

The period in question ended on 20 January 1998. It thus lasted 5 years, 10 months and 2 days.

A. Admissibility

25. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

26. The Government contended that the proceedings were complex. In their view, certain delays in the proceedings were due to difficulties in obtaining expert opinions. The applicant contributed to the length of the proceedings in that he challenged the judges on several occasions. The examination of the applicant's constitutional petition also delayed the proceedings before the ordinary courts.

27. The applicant disagreed and argued, with reference to the Constitutional Court's finding of 28 February 1997, that the length of the proceedings had been excessive.

28. 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 criteria established by its case-law, particularly the complexity of the case, the conduct of the applicant and of 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).

29. The Court notes that the proceedings were of a certain complexity as several expert opinions were required. It accepts the Government's argument that the applicant contributed to the length of the proceedings in that he had challenged the judges dealing with the case on several occasions. However, these factors alone do not account for the overall length of the period under consideration.

30. On 13 July 1995 the Nitra branch office of the Bratislava Regional Court quashed the second District Court's judgment of 25 January 1995 as, *inter alia*, the first instance court had failed to follow the instructions set out in the Regional Court's earlier decision of 20 March 1991.

Furthermore, in its finding of 28 February 1997 the Constitutional Court held that the District Court had failed to proceed with the case in an effective manner as required by the relevant provisions of the Code of Civil

Procedure. The decision stated, in particular, that there had been shortcomings in the judge's work which had caused excessive delays in the proceedings.

31. In view of the above domestic courts' conclusions, and assessing the length of the period under consideration in the light of the criteria established by its case-law, the Court concludes that the applicant's case was not heard within a reasonable time.

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

33. 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

34. The applicant claimed 4,000,000 Slovakian korunas in respect of non-pecuniary damage.

35. The Court, making its own assessment on an equitable basis, awards the applicant EUR 1,500 in respect of non-pecuniary damage.

B. Default interest

36. 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 remainder of the application admissible;
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 applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 1,500 (one thousand five hundred euros) in respect of non-pecuniary damage, to be converted into

Slovakian korunas at the rate applicable at the date of settlement, plus any tax that may be chargeable; and

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 14 October 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President