



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

FOURTH SECTION

CASE OF JAKUB v. SLOVAKIA

(Application no. 2015/02)

JUDGMENT

STRASBOURG

28 February 2006

FINAL

28/05/2006

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 Jakub v. Slovakia,

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

Sir Nicolas BRATZA, *President*,

Mr J. CASADEVALL,

Mr M. PELLONPÄÄ,

Mr R. MARUSTE,

Mr K. TRAJA,

Ms L. MIJOVIĆ,

Mr J. ŠIKUTA, *judges*,

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

Having deliberated in private on 7 February 2006,

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

PROCEDURE

1. The case originated in an application (no. 2015/02) 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 Ľubomír Jakub ("the applicant"), on 6 December 2001.

2. The Slovakian Government ("the Government") were represented by their Agent, Mrs A. Poláčková.

3. On 26 April 2005 the Court decided to communicate the complaint concerning the length of the proceedings to the Government. Applying Article 29 § 3 of the Convention, it decided to rule on the admissibility and merits of the application at the same time.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1954 and lives in Humenné.

A. Applicant's dismissal from work and ensuing litigation

5. Under a contract of employment of 1991, the applicant was employed with the municipality of Humenné and occupied the position of the head of one of its departments.

6. In December 1994 the new mayor of the municipality cancelled the applicant's appointment as the head of department and informed him that, due to the lack of other appropriate posts for him, his employment with the municipality would be terminated. The notice of termination was served on the applicant at some point in February 1995.

1. Original proceedings concerning dismissal

7. On 11 July 1995 the applicant challenged the cancellation of his appointment and the termination of his employment before the Humenné District Court (*Okresný súd*). He also claimed compensation in respect of lost wages.

8. On 18 August 1995 the District Court discontinued the proceedings observing that the applicant had not paid the court fee and finding that he was not eligible for an exemption from the obligation to do so.

9. On 28 November 1995, on the applicant's appeal (*odvolanie*), the Košice Regional Court (*Krajský súd*) quashed the decision of 18 August 1995, finding that the applicant's action fell within the ambit of the exemption under section 4 (2) (d) of the Court Fees' Act (Law no. 71/1992 Coll., as amended).

10. On 15 March 1996 the District Court ruled that both the cancellation of the applicant's appointment and the termination of his employment were void. The District Court found that the applicant's employment had not been established by a deed of appointment (*vymenovaním*) under Article 27 §§ 4 and 5 of the Labour Code but by an ordinary employment contract (*pracovná zmluva*) under Article 27 § 2 of that Code. The applicant's "appointment" thus could not be "cancelled" and the statutory condition for the valid termination of his employment contract had not been met.

The District Court further ruled that the applicant's claim for compensation for lost wages would be dealt with in separate proceedings.

11. On 25 June 1997, on the defendant's appeal, the Regional Court quashed the judgment of 15 March 1996 and remitted the case to the District Court for re-examination. The Regional Court noted that, at the time of the applicant's dismissal, the post of his superior - the head of the municipal office - had been vacant. The applicant had thus been directly answerable to the mayor of the municipality. This being so, the applicant's employment fell within the category of employment by appointment. In the light of these findings, the case had to be reconsidered at first instance.

12. On 29 June 1998 the District Court dismissed the action. It observed that the applicant had been directly answerable to the mayor and that, consequently, the rules for the cancellation of an appointment had applied to him and were complied with. As the municipality had had no possibility of continuing to employ the applicant and all other conditions for the

termination of his employment contract had been met, the applicant's dismissal was lawful.

13. On 17 December 1998, on the applicant's appeal, the Regional Court upheld the part of the judgment of 29 June 1998 dismissing the applicant's motion to declare the cancellation of his appointment void. The Regional Court further overturned the part of the District Court's judgment concerning the termination of the applicant's contract of employment and ruled that it was void.

It was observed that the applicant undoubtedly became the employee of the defendant. There was however no deed of appointment. Declaring the cancellation of the applicant's appointment void would therefore not re-establish his appointment. The applicant thus could not be considered as having a "pressing legal interest", within the meaning of Article 80 (c) of the Code of Civil Procedure, in obtaining the declaratory ruling sought in respect of the cancellation of his appointment.

The termination of the applicant's employment with the defendant, as such, could not be justified by the restructuring of the defendant's office, on which the defendant had relied, as this restructuring had only taken place after the applicant's dismissal.

14. On 29 November 2000, on the applicant's appeal on points of law (*dovolanie*), the Supreme Court (*Najvyšší súd*) quashed the judgment of 17 December 1998 and remitted the case to the Regional Court for a new determination of the applicant's appeal against the judgment of 29 June 1998. In particular, the Supreme Court found a flaw in the procedure before the Regional Court requiring the quashing of its judgment. It further found that the Regional Court had failed to examine adequately the factual and legal grounds on which the applicant's contract of employment had been terminated.

15. On 16 May 2001 the Regional Court held a hearing of the applicant's appeal against the District Court's judgment of 29 June 1998, following which it upheld the latter's judgment. It endorsed the reasoning given by the District Court and, in addition, it observed that, in view of the scope of his duties and his working relationship with the mayor, the applicant had clearly been in a "leading position" to which the rules on employment by appointment had applied.

16. On 28 November 2002 the Supreme Court dismissed the applicant's appeal on points of law against the judgment of 16 May 2001 as unfounded.

It was held that, as for its substance and irrespective of the formal designation of the applicant's contract, his relation with his former employer was one falling within the category of appointment within the meaning of Article 27 § 5 of the Labour Code. The applicant's appointment thus could be, and in fact had been, cancelled. As the defendant had no other appropriate posts for the applicant, the termination of his employment was justified and lawful under Article 46 § 1 (d) of the Labour Code. On

10 February 2003 the Supreme Court corrected clerical errors in the decision. No appeal lay against it.

2. Separate proceedings concerning lost wages

17. Following its decision of 15 March 1996 to deal separately with the applicant's claim for compensation in respect of lost wages, at some unspecified time in 2001, the District Court opened a new set of proceedings under a different file number for this purpose.

18. On 6 November 2001 the District Court dismissed the claim. Referring to the judgments of 29 June 1998 and 16 May 2001, the District Court took it as established that the applicant's dismissal was lawful. It thus could not have resulted in the loss of any wages.

19. On 21 May 2003, on the applicant's appeal, the Regional Court quashed the judgment of 6 November 2001 observing that the District Court had deprived the applicant of an opportunity to assert his rights adequately in that it had determined the claim without having heard him. The matter was remitted to the District Court for re-examination.

20. On 29 September 2003 the District Court again dismissed the applicant's claim for compensation for lost wages in substance for the same reason as on 6 November 2001.

21. On 13 September 2004, on the applicant's appeal, the Regional Court quashed the judgment of 29 September 2003 finding that the District Court had failed to decide on the part of the applicant's claim concerning severance pay. The matter was again remitted to the District Court where it is still pending.

B. Applicant's constitutional complaints

22. On 21 June 2000, on the applicant's petition (*podnet*) under Article 130 § 3 of the Constitution, the Constitutional Court (*Ústavný súd*) found that the District Court had violated the applicant's right under Article 48 § 2 of the Constitution to a hearing without unjustified delay. It considered that the subject matter of the proceedings was not of particular complexity, that the applicant's conduct had been cooperative and that what was at stake for him called for special diligence. As to the conduct of the District Court, the Constitutional Court observed in particular that it had failed to open a new set of proceedings or take any procedural steps in respect of the applicant's claim for compensation for lost wages, as it had announced it would do in its judgment of 15 March 1996.

23. In February 2002 the applicant seized the Constitutional Court anew by a complaint (*sťažnosť*) under Article 127 of the Constitution, as in force since 1 January 2002, of continuing undue delays in his proceedings. The complaint was formally directed against the District Court.

24. On 19 February 2003 the Constitutional Court declared the complaint inadmissible. It observed that, at the time when the constitutional complaint had been lodged, the District Court had no longer been dealing with the case. By then the case had already been transmitted to the Supreme Court for a determination of the applicant's appeal on points of law. In these circumstances, an examination of the part of the proceedings before the District Court could no longer serve to expedite them. Thus, in line with its established practice, the Constitutional Court found that it was not called upon to examine the complaint.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The Constitution

25. Article 48 § 2 provides, *inter alia*, that every person has the right to have his or her case tried without unjustified delay.

26. Pursuant to Article 130 § 3 of the Constitution, as in force until 30 June 2001, the Constitutional Court could commence proceedings upon the petition presented by any individual or a corporation claiming that their rights had been violated.

27. According to its case-law under the former Article 130 § 3 of the Constitution, the Constitutional Court lacked jurisdiction to draw legal consequences from a violation of petitioners' rights under Article 48 § 2 of the Constitution. It could neither grant damages to the person concerned nor impose a sanction on the public authority liable for the violation found. In the Constitutional Court's view, it was therefore for the authority concerned to provide redress to the person whose rights had been violated (for further details see, e.g., *Bánošová v. Slovakia* (dec.), no. 38798/97, 27 April 2000).

28. As from 1 January 2002 the Constitution has been amended in that, *inter alia*, natural and legal persons can complain about a violation of their fundamental rights and freedoms pursuant to Article 127. Under this provision, the Constitutional Court has the power, in the event that it finds a violation of Article 48 § 2 of the Constitution, to order the authority concerned to proceed with the case without delay. It may also grant adequate financial satisfaction to the person whose constitutional rights have been violated as a result of excessive length of proceedings (for further details see, e.g., *Andrášik and Others v. Slovakia* (dec.), nos. 57984/00, 60237/00, 60242/00, 60679/00, 60680/00, 68563/01, 60226/00, ECHR 2002-IX).

B. The Constitutional Court Act

29. The implementation of the amended Article 127 of the Constitution is set out in more detail in sections 49 to 56 of the Constitutional Court Act (Law no. 38/1993 Coll., as amended). The relevant amendment (Law no. 124/2002 Coll.) was published in the Collection of Laws and entered into force on 20 March 2002.

30. Pursuant to section 24 (a), which applies to all motions for any type of constitutional proceedings to be opened, a motion is inadmissible if it concerns a matter which the Constitutional Court has already determined.

31. Section 53 (3) provides that a constitutional complaint can be filed within a period of two months from the date on which the decision in question has become final and binding or on which a measure has been notified or on which a notice of other interference has been given. As regards the measures and other interferences, the above period commences when the complainant could have become aware of them.

32. Under section 79a (2), which was introduced by the above-mentioned amendment no. 124/2002 Coll., and which specifically concerns constitutional complaints by natural and legal persons, the Constitutional Court is to declare inadmissible a complaint if it has already decided on substantially the same matter in proceedings on a complaint or in proceedings on a petition under the applicable legal rules.

C. The Constitutional Court's Practice

1. As to the examination under Article 127 of the Constitution, as in force from 1 January 2002, of the overall length of proceedings, the part of which has already been examined under Article 130 § 3 of the Constitution, as in force until 30 June 2001

33. In proceedings file nos. IV. ÚS 68/02, I. ÚS 64/00 and IV. ÚS 140/03 the Constitutional Court examined the length of civil proceedings before first instance courts on individual complaints under Article 127 of the Constitution, as in force from 1 January 2002. In all 3 cases the Constitutional Court had already examined the length of those proceedings at their first instance stage on petitions under Article 130 § 3 of the Constitution, as in force until 30 June 2001, and had found unjustified delays therein.

In judgments (*nález*) of 6 March, 3 April and 29 October 2003, respectively, the Constitutional Court found continued unjustified delays in the proceedings under review, in their phase after the previous examinations. The Constitutional Court awarded the complainants just satisfaction. In determining the merits of the case and amounts of the just

satisfaction, it took into consideration that delays in those proceedings had already been found before.

2. As to the examination of the overall length of proceedings which were conducted before several authorities

34. It has been the Constitutional Court's long-standing practice to entertain constitutional petitions or, as the case may be, complaints about excessive length of proceedings only where the proceedings complained of are pending before the authority liable for the alleged violation at the moment when such petitions or complaints are lodged (see, for example, decisions file nos. I. ÚS 34/99, II. ÚS 55/02, III. ÚS 20/00, I. ÚS 29/02, II. ÚS 55/02, IV. ÚS 96/02, II. ÚS 138/02, ÚS 139/02, I. ÚS 161/02, IV. ÚS 176/03 and many others).

35. In proceedings file number I. ÚS 56/02 the Constitutional Court examined an individual complaint under Article 127 of the Constitution of delays in enforcement proceedings concerning a minor's claim for maintenance. The enforcement commenced in 1998 in Bratislava IV District Court and, from 2001, continued in Bratislava I District Court where it was still pending.

In a judgment (*nález*) of 14 May 2003 the Constitutional Court found that there had been unjustified delays in the proceedings before both District Courts and awarded the minor complainant just satisfaction in respect of non-pecuniary damage to be paid by both courts.

36. In proceedings file number I. ÚS 145/02 the Constitutional Court examined a complaint by an individual under Article 127 of the Constitution of delays in proceedings in his civil action of 1995. The action was partially granted at first instance in 1999. That judgment was however quashed on appeal in March 2002 and the matter was remitted to the first instance court where it was still pending.

In a judgment of 6 June 2003 the Constitutional Court found that there had been unjustified delays in the proceedings before the first instance court and awarded the complainant non-pecuniary damages. The Constitutional Court also examined the phase of the proceedings before the court of appeal but found no unjustified delays. A similar approach was adopted in proceedings nos. I. ÚS 100/02 and III. ÚS 10/03.

37. In proceedings file number III. ÚS 123/02 the Constitutional Court examined a complaint by an individual under Article 127 of the Constitution of delays in proceedings in a civil action against him. The action was lodged in 1993 with a District Court which, shortly after, transferred it to a Regional Court for reasons of jurisdiction. The action was then pending at the Regional Court until 1998 when the Supreme Court ruled that it should be determined at first instance by the District Court. The action was eventually withdrawn and the proceedings were consequently discontinued by a final decision of January 2003.

In a judgment of 6 June 2003 the Constitutional Court found that there had been unjustified delays in the proceedings both before the District Court and the Regional Court. The complainant was awarded non-pecuniary damages to be paid by both courts. A similar approach was adopted in proceedings no I. ÚS 52/02.

38. In proceedings file no. IV. ÚS 176/03 the Constitutional Court examined a complaint by an individual under Article 127 of the Constitution of, *inter alia*, delays in court proceedings concerning her maintenance. The action was originally filed with the Košice II District Court in 1998. The question arose whether the first instance and the second instance court judges were impartial. On 24 May 1999 the Supreme Court decided that the question of impartiality of the judges at the first instance would be determined by the Žilina Regional Court. The latter decided on 28 January 2000 that the action would be examined at first instance by the Michalovce District Court which determined it on 11 December 2002. On 10 September 2003 the Žilina Regional Court upheld the first instance judgment. In her complaint to the Constitutional Court of 28 February 2003 the plaintiff alleged that the ordinary courts had violated her right to a hearing without undue delay.

On 9 October 2003 the Constitutional Court declared this complaint inadmissible as being manifestly ill-founded. The decision stated that, in so far as the complaint related to the part of the proceedings leading to the Supreme Court's decision of 24 May 1999, it had been filed out of time since, at the moment of the introduction of the constitutional complaint, the relevant part of the proceedings had no longer been pending. For similar reason the Constitutional Court rejected the complaint in respect of the subsequent proceedings before the Michalovce District Court which had ended on 11 December 2002. As to the appellate proceedings before the Žilina Regional Court, the Constitutional Court noted that they had lasted less than five months and found that this period was not excessive. Similar approach was adopted for example in proceedings nos. II. ÚS 39/03, IV. ÚS 219/03 and I. ÚS 84/05.

THE LAW

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

39. The applicant complained that the proceedings in his action of 1995, in so far as they resulted in the judgments of 29 June 1998 and 16 May 2001, had been unfair in that the action was arbitrarily and wrongfully dismissed. He also complained that the length of these

proceedings had been incompatible with the “reasonable time” requirement. He relied on Article 6 § 1 of the Convention, the relevant part of which reads as follows:

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

A. Admissibility

1. As to the applicability of Article 6 § 1 of the Convention

40. The Court notes that in the present case there has been no allegation that the applicant’s post entailed direct or indirect participation in the exercise of powers conferred by public law and duties designed to safeguard the general interests of the State or of other public authorities (see *Pellegrin v. France* [GC], no. 28541/95, § 66, ECHR 1999-VIII). The Court therefore finds Article 6 § 1 of the Convention applicable to the present proceedings.

2. As to the fairness of the proceedings

41. The Court considers that the complaint of the unfairness of the proceedings raises first of all a question whether domestic remedies, namely a complaint under Article 127 of the Constitution, were exhausted as required by Article 35 § 1 of the Convention. It however finds it unnecessary to determine this question since the relevant part of the application is in any event inadmissible for the following reason.

42. The validity of the applicant’s dismissal was examined 7 times by courts at 3 levels of jurisdiction. In the last two judgments, on 16 May 2001 and 28 November 2002 respectively, the Regional Court and the Supreme Court found against the applicant. They held that, in view of its substance, the applicant’s position at his former employment was regulated by the rules on “appointment”. The applicant’s dismissal from that position was in compliance with those rules as was the termination of his employment. With reference to the relevant legislative provisions, the courts supported their conclusions by coherent reasoning which does not appear manifestly arbitrary or wrong. In so far as this part of the application has been substantiated, there is no indication of any procedural unfairness within the meaning of Article 6 § 1 of the Convention (see, for example, *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I).

43. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

2. *As to the length of the proceedings*

44. The Government objected that the applicant had not exhausted domestic remedies as required under Article 35 § 1 of the Convention. They pointed out that the proceedings in the applicant's action of 1995, namely their part concerning the claim for compensation for lost wages, were still pending. In their view, therefore, the applicant could challenge effectively their length by means of a complaint under Article 127 of the Constitution. In examining such a complaint, if lodged in accordance with the applicable procedural requirements (see *Omasta v. Slovakia* (dec.), no. 40221/98, 10 December 2002), the Constitutional Court would take due account of the fact that it had already found unjustified delays in the proceedings before.

45. The applicant reiterated that the subject matter of his application was the action of 1995 only in so far as it related to the validity of his dismissal. It did not concern the separate set of proceedings which was opened in respect of his claim for lost wages pursuant to the District Court's judgment of 15 March 1996. The applicant maintained that he had complied with the exhaustion rule pursuant to Article 35 § 1 of the Convention.

46. The Court recalls that the rule of exhaustion of domestic remedies referred to in Article 35 § 1 of the Convention requires applicants first to use the remedies provided by the national legal system, thus dispensing States from answering before the European Court for their acts before they have had an opportunity to put matters right through their own legal system. The rule is based on the assumption that the domestic system provides an effective remedy in respect of the alleged breach. The burden of proof is on the Government claiming non-exhaustion to satisfy the Court that an effective remedy was available in theory and in practice at the relevant time; that is to say, that the remedy was accessible, capable of providing redress in respect of the applicant's complaints and offered reasonable prospects of success (see, for example, *V. v. the United Kingdom* [GC], no. 24888/94, § 57, ECHR 1999-IX).

47. The Court observes that there is a divergence of practice of the Constitutional Court in examining complaints of the length of proceedings which take place before several authorities (see, on the one hand, paragraphs 34 and 38 above and, on the other hand, paragraphs 35-37 above). A question thus arises whether a complaint under Article 127 of the Constitution is a remedy compatible with the requirements of Article 35 § 1 of the Convention in respect of length of proceedings which have taken place before several instances/authorities.

48. In this context the Court reiterates that it is not its role to decide in the abstract whether the applicable domestic law is compatible with the Convention or whether the domestic law has been complied with by the national authorities (see *Ringeisen v. Austria*, judgment of 16 July 1971, Series A no. 13, p. 40, § 97). In cases arising from individual petitions it must as far as possible examine the issues raised by the case before it (see

The Holy Monasteries v. Greece, judgment of 9 December 1994, Series A no. 301-A, pp. 30-31, § 55). The question of exhaustion of domestic remedies will therefore now be examined with reference to the specific circumstances of the present case only.

49. The Constitutional Court first examined the length of the proceedings in the applicant's action of 1995 in its judgment of 21 June 2000. It found that the District Court had violated the applicant's right to a hearing without unjustified delay. This finding however cannot be considered as having remedied the applicant's situation (see *Bánošová*, cited above).

50. The Constitutional Court can take into account its previous finding under the former Article 130 § 3 of the Constitution of a violation of the right to a hearing without unjustified delay when examining a fresh complaint under the new Article 127 of the Constitution (see paragraph 33 above). However, by virtue of sections 24 (a) and 79a (2) of the Constitutional Court Act, the Constitutional Court is formally prevented from examining again the part of the proceedings which is already covered by the previous finding.

51. It is the Constitutional Court's practice to entertain constitutional complaints about excessive length of proceedings only where the proceedings in question are pending before the authority liable for the alleged violation at the moment when the complaint is lodged (see paragraph 33 above). Under section 53 (3) of the Constitutional Court Act, constitutional complaints can only be dealt with if submitted within a period of two months from the relevant date (see paragraph 31 above).

52. The Constitutional Court's judgment of 21 June 2000 concerned the part of the proceedings which took place before the District Court only. As regards the validity of the applicant's dismissal, that part of the proceedings ended with the District Court's judgment of 29 June 1998 and has never been reopened. The separate set of proceedings opened pursuant to the District Court's judgment of 15 March 1996 concerned a different (although related) matter and was conducted under a separate file number.

53. The present case thus must be distinguished from those referred to above in paragraph 33 in that, at the time when the applicant had at his disposal the remedy under the new Article 127 of the Constitution, his proceedings were no longer pending at first instance.

54. In the period after 1 January 2002 the applicant could challenge under the new Article 127 of the Constitution the length of the proceedings concerning his dismissal which, at that time, took place before the Regional Court and the Supreme Court.

Arguably, the previous finding of unjustified delays in the proceedings before the District Court would be taken into consideration when reviewing the proceedings before the Regional Court and the Supreme Court.

55. However, in view of the Constitutional Court's practice of identifying separately the authorities which are liable for a violation of the complainants' rights and which, as the case may be, are then ordered to provide them appropriate redress (see *Bako v. Slovakia* (dec.), no. 60227/00, 15 March 2005), it is doubtful whether the applicant could obtain redress, from the Regional Court and/or the Supreme Court, in respect of the overall length of the proceedings, a substantial part of which took place before the District Court.

56. In the above circumstances and bearing in mind that the Convention is intended to guarantee rights that are not theoretical or illusory, but rights that are practical and effective (see, for example, *Matthews v. the United Kingdom* [GC], no. 24833/94, § 34, ECHR 1999-I), the Court finds that the remedy under Article 127 of the Constitution, as in force from 1 January 2002, did not offer the applicant reasonable prospects of success (see *V.*, cited above, § 57) in seeking adequate and sufficient redress (see, for example, *Cardot v. France*, judgment of 19 March 1991, Series A no. 200, p. 19, § 36) in respect of the overall length of his proceedings.

The Government's objection as to non-exhaustion of domestic remedies thus cannot be sustained.

57. In view of the scope of the application, as defined above, the period to be taken into consideration began on 11 July 1995 and ended on 28 November 2002. It thus lasted 7 years and over 4 months for 3 levels of jurisdiction.

58. 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

59. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). The Court also reiterates that special diligence is necessary in employment disputes (*Ruotolo v. Italy*, judgment of 27 February 1992, Series A no. 230-D, p. 39, § 17).

60. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

61. Having examined all the material submitted to it, the Court considers that no facts or arguments have been put forward capable of persuading it to

reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

62. 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

63. The applicant claimed 1,580,000¹ Slovakian korunas (SKK) in respect of pecuniary damage. He also claimed compensation in respect of non-pecuniary damage, leaving the amount of it to the Court’s discretion.

64. The Government contested these claims.

65. With reference to the violation found (see paragraph 60 above) and in so far as the claim has been substantiated, the Court does not discern any pecuniary damage. The Court however considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards award him 2,400 euros (EUR) under that head.

B. Costs and expenses

66. The applicant also claimed SKK 45,000² for the costs and expenses.

67. The Government contested the claim and submitted that only actually, necessarily and reasonable incurred costs could be compensated.

68. According to the Court’s case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the applicant, who was not represented by a lawyer, the sum of EUR 250 under this head.

1. SKK 1,580,000 is an equivalent of approximately EUR 40,500

2. SKK 45,000 is an equivalent of approximately EUR 1,150

C. Default interest

69. 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 concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the length of the proceedings;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 2,400 (two thousand four hundred euros) in respect of non-pecuniary damage and EUR 250 (two hundred fifty euros) in respect of costs and expenses, to be converted into Slovakian korunas at the rate applicable at the date of settlement, plus any tax that may be chargeable;
 - (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 applicant's claim for just satisfaction.

Done in English, and notified in writing on 28 February 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President