CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

CASE OF HEŘMANSKÝ v. THE CZECH REPUBLIC

(Application no. 20551/02)

JUDGMENT

STRASBOURG

4 April 2006

FINAL

04/07/2006

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 Heřmanský v. the Czech Republic,

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

Mr J.-P. COSTA, *President*,
Mr A.B. BAKA,
Mr R. TÜRMEN,
Mr K. JUNGWIERT,
Mr M. UGREKHELIDZE,
Mrs A. MULARONI,
Mrs E. FURA-SANDSTRÖM, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 14 March 2006,

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

PROCEDURE

1. The case originated in an application (no. 20551/02) against the Czech Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Czech national, Mr Jaroslav Heřmanský ("the applicant"), on 7 December 2001.

2. The applicant was represented by Mr M. Hlavnička, a lawyer practising in Kamenický Šenov. The Czech Government ("the Government") were represented by their Agent, Mr V.A. Schorm of the Ministry of Justice. On 19 October 2004 the Court declared the application partly inadmissible and 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

THE CIRCUMSTANCES OF THE CASE

3. The applicant was born in 1946 and lives in Hřensko.

4. On 3 July 1992 the Děčín District Court (*okresní soud*) granted the applicant's action and declared the North-Bohemian Gas Company's (*Severočeské plynárny*) immediate termination of his employment in 1989 null and void.

5. On 14 October 1997 the applicant lodged an action for loss of wages against his former employer in the Ústí nad Labem District Court[1]. On 10 December 1997 he paid court fees.

6. On 25 September 1998 the District Court discontinued the proceedings due to the applicant's alleged withdrawal of his action.

7. On 30 November 1998 the Regional Court, upon the applicant's appeal of 23 November 1998, quashed this decision and remitted the case to the District Court for further consideration.

8. A hearing held on 9 April 1999 was adjourned *sine die* with a view to verifying information presented at the hearing.

9. On 25 October 1999 the applicant's case was transmitted to another judge because of the long-term illness of the original judge.

10. On 4 October 2000 the applicant's legal representative, upon the court's telephoned request, submitted supplementary documents.

11. On 15 January 2001 he was requested to present other documents. As the applicant's legal representative did not do so, the court urged him to comply on 9 April 2001. He complied on 14 May 2001.

12. On 13 June 2001 the defendant submitted its written comments.

13. On 28 August 2001 the District Court's vice-president, upon the applicant's complaint, acknowledged the delay in the proceedings.

14. As the judge dealing with the applicant's case had left on maternity leave on 8 October 2001, another judge was appointed. On 15 November 2001 the District Court vice-president requested the new judge to deal with the case speedily. She renewed her request on 1 October 2002. On 31 October 2002 the vice-president appointed another judge to deal with the case due to the long-term illness of the previous judge.

15. In the meantime, on 9 August 2002, the applicant had asked for referral of his action to the Liberec District Court, considering that the latter would deal with the action without delay. On 10 March 2003 his legal representative was invited to clarify his client's request. On 7 April 2003 the lawyer replied and, on 18 April 2003, he paid court fees concerning the referral.

16. On 7 May 2003 the applicant's request was sent to the defendant which, on 29 May 2003, expressed its disagreement.

17. On 20 June 2003 the Ústí nad Labem Regional Court (*krajský soud*) decided that the applicant's action would not be transferred to the Liberec District Court.

18. On 4 September 2003 the vice-president of the District Court again urged the judge to continue to deal with the case.

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[1] This was the third action filed against the same defendant. The applicant's two previous actions for loss of wages were discontinued on 2 December 1994 and 26 May 1997, after the applicant had failed to pay court fees.

19. Two hearings were held, on 7 November 2003 and 6 February 2004. A hearing which was to be held on 14 May 2004 was adjourned *sine die* on 2 April 2004, as the judge was ill. On 20 September 2004 another judge was appointed, who fixed the next hearing for 5 January 2005.

THE LAW

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

20. The applicant complained that the proceedings had lasted an unreasonably long time.

The Court considers that the applicant's complaint should be examined under 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..."

21. The Government contested that argument.

22. The period to be taken into consideration is now eight years and five months.

A. Admissibility

23. 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

24. The Government conceded that the present case was not complex, and that the applicant was not, in general, responsible for delays in the proceedings, although he had extended them by a few months by requesting the referral of his case to another court. According the Government, some delays in the proceedings had been caused by the enormous workload of the District Court and the lengthy incapacity to work of the judges involved in the case. Finally, the Government asserted that the present case might be one of the types of proceedings in respect of which the Court usually required speedier deliberations.

25. 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).

26. 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).

27. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument 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

28. 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."

29. The applicant did not submit a claim for just satisfaction in time[2]. Accordingly, the Court considers that there is no call to award him any sum on that account.

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.

Done in English, and notified in writing on 4 April 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ Registrar	J.-P. COSTA President

[2] The applicant's observations were submitted outside the time-limit fixed for that purpose. The President of the Chamber decided, pursuant to Rule 38 § 1 of the Rules of Court, that they should not be included in the case file for the consideration of the Court.