



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

FOURTH SECTION

**CASE OF KVASNOVÁ v. SLOVAKIA**

*(Application no. 67039/01)*

JUDGMENT

STRASBOURG

13 June 2006

**FINAL**

*13/09/2006*

*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 Kvasnová 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 S. PAVLOVSKI,

Mr L. GARLICKI,

Ms L. MIJOVIĆ,

Mr J. ŠIKUTA, *judges*,

and Mr T.L. EARLY, *Section Registrar*,

Having deliberated in private on 23 May 2006,

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

**PROCEDURE**

1. The case originated in an application (no. 67039/01) 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, Mrs Mária Kvasnová (“the applicant”), on 26 October 2000.

2. The Slovakian Government (“the Government”) were represented by their Agent, Mr P. Kresák, succeeded by Mrs A. Poláčková.

3. On 22 October 2004 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**

4. The applicant was born in 1930 and lives in Banská Bystrica.

*1. Proceedings concerning the applicant’s action of 1992*

5. On 20 February 1992 the applicant filed an action with the Banská Bystrica District Court. She claimed that a joint ownership be terminated in respect of several plots of land and a house.

6. On 6 April 1992 the court summoned the applicant’s advocate and asked him to inform the court whether the applicant maintained her claim.

7. On 18 June 1992 the court held a hearing where it heard both parties and invited them to submit further evidence. The defendant lodged a counterclaim and the court requested him to specify it.

8. On 13 July 1992 and on 2 September 1992 the court asked the State Notary in Banská Bystrica to submit case files concerning three sets of inheritance proceedings in which the applicant had been involved.

9. On 30 November 1992 the applicant amended her action and requested that another person should be joined as a defendant in the case.

10. The court held hearings on 17 December 1992 and on 19 January 1993 respectively. The latter hearing was adjourned as expert examination had to be taken. On 4 April 1993 the court invited the applicant to submit a geometric plan of the relevant plots.

11. In a letter of 21 April 1993, the applicant informed the court that she had brought a criminal complaint against a notary public and requested that the District Court's proceedings should be stayed pending the outcome of the criminal proceedings. On 21 September 1993 she withdrew her request.

12. On 27 September 1993 the District Court urged the applicant to submit the geometric plan. The applicant did so on 25 April 1994.

13. On 17 May 1994 the applicant amended her action. At a hearing held on 25 October 1994, the court invited her to specify the amended action. On 1 June 1995 the applicant submitted an additional claim challenging the validity of a purchase contract concerning the property in question which had been concluded in 1972.

14. On 13 November 1995 the court held a hearing where it accepted the amendment of the applicant's action. A further hearing scheduled for 27 November 1995 was adjourned due to the absence of a witness.

15. On 13 December 1995 the District Court delivered an interim judgment declaring the purchase contract of 1972 void. The defendant appealed on 5 March 1996.

16. On 23 April 1996 the Banská Bystrica Regional Court upheld the interim judgment.

17. The District Court held hearings on 29 May 1996 and on 16 July 1996 respectively. The defendant requested that the latter hearing should be adjourned as he intended to appoint a new legal representative. The court granted the defendant's request and invited him to submit a power of attorney within 20 days.

18. On 2 September 1996 and on 15 October 1996 respectively the court urged the defendant to submit the power of attorney. On 14 January 1997 the defendant submitted the power of attorney together with his comments on the applicant's action.

19. The court held a hearing on 20 February 1997. On 27 February 1997 the applicant submitted comments on the defendant's arguments presented at the hearing of 20 February 1997. Subsequently the court invited the

defendant to comment on the applicant's submissions and on the geometric plan submitted by her on 25 April 1994.

20. On 30 April 1997 the court urged the defendant to submit his comments. The defendant did so on 23 May 1997. Following the court's request of 30 September 1997 to comment on the defendant's submissions, the applicant informed the court, by a letter of 20 October 1997, that she maintained her claim.

21. On 17 March 1999 the District Court scheduled a hearing for 6 April 1999. At the latter date the case was adjourned as the court decided to visit the site. On 20 April 1999 the applicant submitted further evidence.

22. On 14 September 1999 the court inspected the site.

23. On 3 April 2000 the District Court dismissed the applicant's action. The District Court's judgment was served on the applicant on 7 June 2001. Subsequently she appealed.

24. On 9 July 2001 the applicant paid a court fee for her appeal. The case file was transferred to the court of appeal on 9 August 2001.

25. Following a hearing held on 19 September 2001, the Regional Court inspected the site in the presence of both parties on 28 September 2001.

26. On 3 October 2001 the Regional Court upheld the District Court's judgment of 3 April 2000. The District Court's judgment became final and binding on 23 November 2001.

### *2. Proceedings concerning the applicant's action of 1999*

27. On 2 September 1999 the applicant claimed before the Banská Bystrica District Court a determination of the joint ownership of real property and its dissolution, as well as compensation.

28. On 18 December 2002 the Banská Bystrica District Court dismissed the action.

29. On 4 September 2003 the Banská Bystrica Regional Court upheld the first instance judgment. Both courts found, with reference to an inheritance decision of 1969, that the property in question had passed into the exclusive ownership of a different person. The Regional Court considered irrelevant the applicant's argument that her date of birth and personal registration number had been incorrectly mentioned in the relevant documents while the inheritance proceedings had been pending as the State Notary had had no doubt about the correct identification of the applicant and her relation to the testator.

### *3. Registration of the applicant's date of birth*

30. In 1940 the house in which the applicant and her parents lived burned down and the family documents including the applicant's birth certificate were destroyed. The applicant indicated 6 July 1930 as her date of birth in accordance with her mother's statement.

31. In 1951 the local authority in Tajov delivered a new birth certificate to the applicant indicating that the applicant had been born on 8 July 1930.

32. On 5 March 1997 the District Office in Banská Bystrica delivered a new birth certificate to the applicant according to which she had been born on 6 July 1930.

## THE LAW

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

33. The applicant complained that the length of the proceedings concerning her action of 1992 had been incompatible with the “reasonable time” requirement, provided 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...”

34. The period to be taken into consideration began on 18 March 1992, when the recognition by Slovakia of the right of individual petition took effect. It ended on 3 October 2001. The relevant period thus lasted 9 years, 6 months and 18 days. During this period courts at two levels dealt with the applicant’s claims. Additionally, the examination of the applicant’s case involved the determination of a preliminary question by courts at two levels between June 1995 and April 1996.

#### A. Admissibility

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

36. 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

37. 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).

38. The Court considers that the case in issue was not of a particular complexity notwithstanding that a preliminary question had to be determined prior to the determination of the applicant's claims and that the courts were required to inspect the site with a view to establishing the relevant facts. The length of the proceedings was partly due to the fact that the applicant amended her claims several times and that she had requested that the case should not be processed pending the outcome of criminal proceedings which she had initiated. The District Court did not proceed with the case for approximately 17 months between 20 October 1997 and 17 March 1999. The District Court's judgment given on 3 April 2000 was served on the applicant on 7 June 2001 which is approximately 16 months after its delivery. At that time, the proceedings had been pending for more than 9 years. Having examined all the material submitted to it and having regard to its case-law on the subject, the Court considers that in the instant case the overall 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. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

39. The applicant complained that her right to respect for her private life had been violated in that the birth certificate delivered to her in 1951 had incorrectly indicated her date of birth. She relied on Article 8 of the Convention.

40. On 1 March 2004 the applicant extended her application in that she also alleged a violation of Articles 2, 3, 4, 5, 8 13 and 14 of the Convention with reference to the judicial decisions taken in her actions of 1992 and of 1999, to a State Notary's decision on estate of 30 June 1969 and to the refusal of the Slovakian authorities to recognise her rights in respect of property to which she considers herself to be entitled.

41. The Court has examined these complaints but finds, to the extent that they have been substantiated and fall within its competence, that they do not disclose any appearance of a violation of the Convention or its Protocols.

### III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

42. 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

43. The applicant claimed 5,000,000 Slovak korunas<sup>1</sup> (SKK) in respect of non-pecuniary damage.

44. The Government contested the claim.

45. The Court considers it appropriate to award the applicant EUR 4,100 in respect of non-pecuniary damage related to the above violation of her right to a hearing within a reasonable time.

#### B. Default interest

46. 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;
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 4,100 (four thousand one hundred euros) in respect of non-pecuniary damage, that sum to be converted into the currency of the respondent State at a 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 amount at a rate

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<sup>1</sup> SKK 5,000,000 is the equivalent of approximately 131,600 euros.



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 13 June 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY  
Registrar

Nicolas BRATZA  
President