



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

FOURTH SECTION

**CASE OF BABYLONOVÁ v. SLOVAKIA**

*(Application no. 69146/01)*

JUDGMENT

STRASBOURG

20 June 2006

**FINAL**

***20/09/2006***



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

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

Nicolas Bratza, *President*,  
Josep Casadevall,  
Matti Pellonpää,  
Kristaq Traja,  
Stanislav Pavlovski,  
Ljiljana Mijović,  
Ján Šikuta, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 30 May 2006,

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

## PROCEDURE

1. The case originated in an application (no. 69146/01) 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 Katarína Babylonová (“the applicant”), on 22 March 2001.

2. The Government of the Slovak Republic (“the Government”) were represented by their Agent, Mrs A. Poláčková. The applicant was not represented.

3. On 26 January 2005 the President of the Chamber decided to communicate the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it was decided to examine the merits of the application at the same time as its admissibility.

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1951 and lives in Nové Zámky.

5. On 18 August 1995 the applicant and her husband entered into a contract for the purchase of a family house and a plot of land from Mr and Mrs D.

6. Mr D., who was registered as permanently resident (*trvalý pobyt*) at the house’s address, undertook in the contract to secure his deregistration by 21 August 1995.

7. The applicant and her husband then became the owners of the property and moved into the house. However, Mr D. failed to deregister himself from the relevant register, which was kept by the municipal office (*Obečný úrad*) of Nové Zámky.

8. In a letter of 2 March 2001 in reply to the applicant's enquiry, the Nové Zámky district prosecutor (*Okresný prokurátor*) informed her that registration of permanent places of residence was governed by the Registration of Citizens' Place of Residence Act (Law no. 135/1982, see "Relevant domestic law and practice" below) in conjunction with the Regulation on Enforcement of the Registration of Citizens' Place of Residence Act (Regulation no. 146/1982). Individuals were obliged to report the taking-up of a new permanent place of residence to the municipal office of the municipality in which that residence was located within three days. Registration of a new permanent place of residence entailed an automatic cancellation of the registration at the previous one. A registration of a permanent place of residence could only be cancelled without registering a new one if the person concerned had lawfully emigrated from Slovakia or if it was discovered that the registration had been based on invalid or forged documents. As Mr D. had not applied for registration of a new permanent place of residence, the Nové Zámky municipal office had no legal authority under the existing legislation to cancel his previous registration at the applicant's home address.

9. On 22 March 2001 the applicant and Mr D. made a joint written declaration to the effect that Mr D. was not resident at the house in question, that he had no right of use in respect of it and that he was not contributing to the costs of its use. Mr D. further declared that he had applied to be deregistered as permanently resident at the house, that his application had been dismissed and that he was homeless and staying in different locations.

10. In a letter of 24 May 2001, in reply to her enquiry, the head office of the Police Corps informed the applicant that section 5(1) of a new Registration of Citizens' Place of Residence Act (Law no. 253/1998 – see "Relevant domestic law and practice" below), which was to come into force on 1 January 2002, could offer a solution to her problem. This legal provision enabled a person to be registered as a permanent resident in a municipality where he or she was born or was habitually resident (*kde sa zdržuje*), without actually having any specific address there. The letter further stated that the registration of a permanent place of residence at a certain address did not confer a legal right to live there and was merely evidentiary in nature.

11. On an unspecified date the applicant applied for a social contribution towards her dwelling costs (*príspevok na bývanie*). The number of persons registered as permanently resident at a dwelling was a relevant factor in considering eligibility for such contributions and in calculating the amount to be paid. On 25 April 2001 the Nové Zámky municipal office issued a

certificate to the effect that three persons were registered as permanently resident at the applicant's address, namely the applicant, her husband and Mr D. The municipal office issued a similar certificate on 5 April 2004. Once the applicant had explained the situation to the municipal office employees, the problem was resolved.

12. In a letter of 15 October 2001, in response to the applicant's enquiry, the Nové Zámky municipal office informed her that, in the circumstances, it would not be possible to cancel Mr D.'s registration as permanently resident at her house, even when the 1998 Registration of Citizens' Place of Residence Act came into force.

13. By a payment order of 22 January 2002, the Nové Zámky municipality charged the applicant's husband a fee for the removal of household waste from their house. The amount of such fees depended on the number of persons registered as permanently or temporarily resident at a given dwelling. In the applicant's case the fee was calculated on the basis of three persons being registered at her address. Once the applicant had explained the situation to the municipality employees, the problem was resolved.

14. The applicant submitted that official mail and other documents, including, in April 2005, a letter from the Nové Zámky municipal office, were being sent to Mr D. at her address, and that the police had come to her house searching for Mr D. on suspicion of having failed to make child maintenance payments.

15. The applicant further submitted that her marriage had been dissolved and that, in order to settle their property affairs, she and her former husband had put the house on the market. A prospective buyer withdrew his offer on learning that a third person was registered as permanently resident at the house and that there was no way of having that registration cancelled. The applicant continues to live in the house with her former husband.

## II. RELEVANT DOMESTIC LAW AND PRACTICE

### A. The Constitution

16. Article 19 provides:

“1. Everyone has the right to the preservation of his human dignity and personal honour, and the protection of his good name.

2. Everyone has the right to protection against unwarranted interference in his private and family life ...”

17. Article 127, as in force since 1 January 2002, provides:

“1. The Constitutional Court shall decide complaints by natural or juristic persons alleging a violation of their fundamental rights or freedoms or of human rights and

fundamental freedoms enshrined in international treaties ratified by the Slovak Republic ... unless the protection of such rights and freedoms falls within the jurisdiction of a different court.

2. If the Constitutional Court finds a complaint justified, it shall deliver a decision stating that a person's rights or freedoms as set out in paragraph 1 have been violated by a final decision, specific measure or other act and shall quash such decision, measure or act. If the violation that has been found is the result of a failure to act, the Constitutional Court may order [the authority] which has violated the rights or freedoms to take the necessary action. At the same time it may remit the case to the authority concerned for further proceedings, order such authority to refrain from violating the fundamental rights and freedoms ... or, where appropriate, order those who have violated the rights or freedoms set out in paragraph 1 to restore the situation to that existing prior to the violation.

3. In its decision on a complaint the Constitutional Court may grant appropriate financial compensation to the person whose rights under paragraph 1 have been violated.

4. The liability for damage or other loss of a person who has violated another person's rights or freedoms within the meaning of paragraph 1 shall not be affected by the Constitutional Court's decision."

**18. Article 154 (c) provides:**

"1. International treaties on human rights and fundamental freedoms ratified by the Slovak Republic and promulgated in accordance with the statutory requirements existing prior to the entry into force of this constitutional law shall be part of the national legal order and take precedence over national laws provided that such international treaties guarantee more extensive constitutional rights and freedoms.

2. Other international treaties ratified by the Slovak Republic and promulgated under statutory requirements existing prior to the entry into force of this constitutional law shall be part of the national legal order if so provided by statute."

**B. The Constitutional Court's practice**

19. In decision no. I. ÚS 9/00 of 22 March 2000, the Constitutional Court expressed the view that ordinary courts were obliged in civil proceedings to interpret and apply the relevant laws in accordance with the Constitution and with international treaties. The ordinary courts therefore had primary responsibility for upholding the rights and fundamental freedoms guaranteed by the Constitution or international treaties.

20. In case no. II. ÚS 5/02, a private individual sought to bring a complaint under Article 127 of the Constitution, challenging a generally binding municipal regulation as unconstitutional.

On 6 February 2002 the Constitutional Court declared the complaint inadmissible. In its decision it summarised the existing case-law concerning the standing of private persons to bring proceedings for review of the constitutionality of legislation. The Constitutional Court held that any of the

various forms of constitutional proceedings before it could only be commenced in a distinct set of proceedings and only on the motion of persons or bodies which had standing to initiate them. No other type of constitutional proceedings could be carried out within separate proceedings of another type. An examination of an individual human rights complaint could not entail a review of the constitutionality of legislation. This approach was in line with the Constitutional Court's previous decision in case no. II. ÚS 40/00, and was followed in the later decision in case no. II. ÚS 238/03.

### **C. The Civil Code**

21. The protection of personal integrity is governed by the provisions of Articles 11 et seq. In so far as relevant, these provide:

#### **“Article 11**

Every natural person shall have the right to protection of his or her personal integrity, in particular his or her ... civil honour and human dignity, as well as privacy, name ...

...

#### **Article 13**

1. Every natural person shall have the right, *inter alia*, to request an order restraining any unjustified interference with his or her personal integrity, an order cancelling out the effects of such interference and an award of appropriate compensation.

2. If the satisfaction afforded under paragraph 1 of this Article is insufficient, in particular because the injured party's dignity or social standing has been considerably diminished, the injured party shall also be entitled to financial compensation for non-pecuniary damage.

3. When determining the amount of compensation payable under paragraph 2 of this Article, the court shall take into account the seriousness of the harm suffered by the injured party and the circumstances in which the violation of his or her rights occurred.”

### **D. Registration of Citizens' Place of Residence Act of 1982 (*Zákon o hlášení a evidencii pobytu občanov*)**

22. The Act was enacted on 29 November 1982, came into force on 1 January 1983 (section 23) and is still in force in Slovakia.

23. The purpose of the Act is to regulate and secure the proper and timely reporting and registration of the place of residence of Czechoslovak citizens on the territory of the Czechoslovak Socialist Republic (section 1).

24. Citizens are obliged to report the location and the start and end dates of their place of residence to the registration office (*ohlasovňa*) of the local national council (*miestny národný výbor*) (section 2(1)(a)).

25. Under section 3(3) an individual can permanently reside for the purposes of that Act only in premises which have a registration number, issued in accordance with special regulations.

26. Section 4(1) and (2) provide that all citizens are to register their permanent place of residence. For that purpose they are to submit to the registration office their identity card and a certificate to the effect that they are authorised to use the flat or other residential premises in question.

27. Pursuant to section 4(4) on reporting the location and start date of their permanent place of residence, citizens are obliged to report also the end date of their previous permanent place of residence.

28. In accordance with section 15(1)(b), a registration office is to cancel the registration of a citizen's permanent place of residence where it has been shown that the registration was made erroneously on the basis of an invalid document.

**E. Registration of Citizens' Place of Residence Act of 1998 (*Zákon o hlásení pobytu občanov Slovenskej republiky a registri obyvateľov Slovenskej republiky*)**

29. The Act was enacted on 1 July 1998 and was intended to come into force on 1 January 2000. Its entry into force was subsequently postponed five times and is presently envisaged for 1 July 2006 (section 29).

30. The Act regulates the rights and duties of the citizens of the Slovak Republic in respect of reporting their place of residence, and the rights and duties of the competent authorities in the area of registration of citizens' place of residence (section 1).

31. All citizens are obliged to report the location and start and end dates of their place of residence to the registration office of the municipality in which it is located (section 2(1)).

32. A permanent place of residence may only be established in a building or a part of a building which has a registration number, issued in accordance with special regulations, and which is intended for residential use. The registration of a permanent place of residence confers no right in respect of the building or in relation to its owner and is merely of an evidentiary nature (section 3(2) and (3)).

33. Section 3(8)(c) and (d) provide that, for registration purposes, citizens are to submit to the registration office a document attesting to their ownership of the premises or, as the case may be, the owner's written consent to the registration.

34. Pursuant to section 5, citizens who are not in a position to show that they are authorised to stay in a flat or other residential premises are to report



their stay to the registration office in the place where they are resident (*kde sa zdržiava*). In such cases, the municipality in question is considered to be the permanent place of residence. The address of the municipal office is to be used as the address for official purposes, such as the service of official mail.

35. A registration office is to cancel the registration of citizens' permanent place of residence, *inter alia*, when they move and register as residing elsewhere (section 7(1)(a) in conjunction with section 10(d)).

36. A registration office is also to cancel the registration at the request of the owner of the premises if the citizen in question has no right of use in respect of them (section 7(1)(f)). In such cases the citizen whose registration has been cancelled is to be registered as residing in the municipality where the registration was cancelled (section 7(2)).

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

37. The applicant complained that it was impossible for her to obtain cancellation of Mr D.'s registration as permanently resident at her house, a fact which disturbed her and adversely affected the assessment of her situation in various contexts, such as for the purpose of social contributions towards dwelling costs and the calculation of fees for the removal of household waste. She alleged a violation of her right to respect for her private life and home under Article 8 of the Convention, the relevant parts of which provide:

“1. Everyone has the right to respect for his private ... life, his home ...

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

#### A. Admissibility

38. The Government argued that the applicant had not exhausted domestic remedies as required by Article 35 § 1 of the Convention. They argued, firstly, that the applicant could have claimed redress in the ordinary courts under the Civil Code by way of an action for the protection of her personal integrity, but had failed to do so. The mechanism for the protection

of personal integrity was to be construed and applied in the context of the right to protection of privacy under Article 19 and in accordance with Article 154 (c) of the Constitution. This mechanism thus afforded the applicant guarantees identical to those provided under Article 8 of the Convention, including the possibility of claiming just satisfaction in respect of non-pecuniary damage.

39. Moreover, and in any event, the Government also contended that the applicant could have asserted her claims under Article 8 of the Convention before the Constitutional Court by way of a complaint under Article 127 of the Constitution, but had failed to do so. The situation complained of had been ongoing and had continued in the period after 1 January 2002, from which date the said remedy had become available. A constitutional complaint would offer the applicant the possibility of claiming, *inter alia*, compensation in respect of the alleged non-pecuniary damage.

40. The applicant maintained that she had complied with the exhaustion rule in Article 35 § 1 of the Convention. As to the specific complaint concerning Article 127 of the Constitution, the applicant pointed out that she had lodged her application with the Court on 22 March 2001, prior to the entry into force on 1 January 2002 of the constitutional amendment providing for the remedy referred to by the Government. Furthermore, the applicant contended that she had turned to the Court for protection under the Convention precisely because she had been informed by various domestic authorities that there was no constructive solution to the situation at domestic level. This state of affairs persisted until the present day and there was no way of cancelling Mr D.'s registration at her house, even under Article 127 of the Constitution.

41. The Court reiterates that the rule of exhaustion of domestic remedies referred to in Article 35 of the Convention obliges those seeking to bring their case against the State before an international judicial or arbitral organ to use first the remedies provided by the national legal system, thus dispensing States from answering before an international body for their acts before they have had an opportunity to put matters right through their own legal systems. In order to comply with the rule, normal recourse should be had by an applicant to remedies which are available and sufficient to afford redress in respect of the breaches alleged (see *Aksoy v. Turkey*, 18 December 1996, §§ 51-52, *Reports of Judgments and Decisions* 1996-VI).

42. The Court observes that the principal thrust of the present complaint is the repercussions of Mr D.'s continued registration as residing permanently in her house on the applicant's rights as protected under Article 8 of the Convention and the fact that, under domestic legislation as it currently stands, it is impossible to obtain cancellation of his registration.

43. As to the remedies advanced by the Government, the Court observes that the mechanism under the Civil Code for the protection of personal

integrity allows for a request to be made for an order restraining unjustified interference with personal integrity; for an order cancelling the effects of such interference; and for a ruling on appropriate compensation. Even assuming that the mechanism for the protection of personal integrity could be used by the applicant in the circumstances of the present case, the Government have not alleged and there is no indication that this mechanism could lead to the actual cancellation of Mr D.'s registration as permanently resident at the applicant's house, which itself is in compliance with the applicable laws.

44. As to the possibility of a constitutional complaint under Article 127 of the Constitution, the Court reiterates that, although there may be exceptions justified by the particular circumstances of each case, the assessment of whether domestic remedies have been exhausted is normally carried out with reference to the date on which the application was lodged with it (see *Baumann v. France*, no. 33592/96, § 47, 22 May 2001). In this context, it is noted that the application was lodged on 22 March 2001 and that the remedy under Article 127 of the Constitution became available no earlier than 1 January 2002. Moreover, and in any event, the Court observes that the essence of the situation complained of is the existing legal framework in the area of registration of citizens' place of residence, whereas the Constitutional Court has held on several occasions that an examination of an individual human rights complaint cannot entail a review of the constitutionality of legislation (see paragraph 20 above).

45. The Court finds that, in these circumstances, the Government's plea of inadmissibility for non-exhaustion of domestic remedies must be dismissed. The Court notes that the complaint under Article 8 of the Convention is not manifestly ill-founded within the meaning of Article 35 § 3. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

## **B. Merits**

46. The Government accepted that, under the current legislation, it was impossible to deregister a citizen who was unable to be registered as permanently resident elsewhere. They pointed out that it was a condition of the contract of sale of 18 August 1995 that Mr D. would cancel his registration at the applicant's house, and maintained that the applicant should have sought enforcement of this contractual clause in the ordinary courts. Furthermore, the Government drew attention to the fact that no up-to-date information had been provided on Mr D.'s situation since March 2001 and that there was no indication that the applicant had made contact with Mr D. since that date with a view to resolving jointly the problem of his deregistration. Referring to the Court's decision in *Siebert v. Poland* ((dec.), no. 40328/98, 25 May 2004), the Government emphasised that

Mr D. was free to register as permanently resident at any other place where he was deemed to have met the permanent place of residence requirements specified in the relevant legal provisions. Without any further substantiation, the Government also claimed that, assuming that Mr D. was destitute, in order to be able to deregister as permanently resident at the applicant's house, he could seek to re-register as permanently resident at one of the numerous humanitarian establishments located all over the country. Referring to the Court's judgment in *Chapman v. the United Kingdom* ([GC], no. 27238/95, § 99, ECHR 2001-I), the Government further argued that neither Article 8 nor any other provision of the Convention guaranteed housing of a particular standard or at all. Finally, with reference to the Court's decision in *Václavík v. Slovakia* ((dec.), no. 41372/98, 30 September 2003), the Government maintained that the Contracting States were free to regulate the registration of their citizens. The Government considered that, in the light of the above arguments, the application was ill-founded.

47. In response to the Government's arguments, the applicant contended that the domestic legal system provided no legal means for her or for the authorities to compel Mr D. to fulfil his contractual obligation to secure his deregistration as permanently resident at her house by taking up a new place of residence in a humanitarian shelter (which in any event did not provide a permanent place of residence but merely a bed to sleep on), or elsewhere. Her situation was thus plainly unresolvable in Slovakia. The applicant conceded that the problems concerning the household waste charges and social contributions towards dwelling costs had eventually been resolved, but only after she had been forced to explain the circumstances to the relevant authorities, a situation which she had found distressing. The applicant considered that, as a law-abiding citizen, she was entitled to peace of mind as to whether she complied with all of her civic duties and obligations. The current state of affairs, however, left her in a constant state of uncertainty in this respect and she was disturbed by having to explain it repeatedly. Furthermore, the applicant claimed that the fact that official mail was being sent to Mr D. at her address and that the police had visited her house in search of him had upset her, and that the latter incident had damaged her reputation among her neighbours. In the circumstances, it was possible that the police could come again and that they could even conduct a search of her home. As it had been impossible to sell the house, she was forced to live in it with her former husband, which also disturbed her privacy. The applicant concluded that the above annoyances amounted to an interference with her rights as protected under Article 8 of the Convention. The disputed registration was in fact inaccurate and could not have any legitimate justification. Finally, the applicant submitted that, as there was an apparent flaw in the applicable legislation, the problem was of a general character and concerned a large number of people.

48. The Court observes that, relying on Article 8 of the Convention, the applicant alleged a violation of her rights to respect for her private life and for her home. In particular, she asserted that, against her will, she had to tolerate the fact that an unrelated third person was registered in official records held by public authorities as residing permanently in her house and that there was no way of securing his deregistration. The Government accepted that the only lawful way of deregistering a permanent place of residence was by establishing a new one. That Mr D.'s deregistration from the applicant's house is possible thus appears to be a question of fact rather than a question of law. The Court does not find it established that Mr D. can set up a new permanent place of residence within the meaning of the Registration of Citizens' Place of Residence Act of 1982 in a humanitarian establishment, or that there is a lawful means for compelling Mr D. to register elsewhere if his economic position does not permit him to do so.

49. The applicant also alleged that, as a result of Mr D.'s inaccurate registration, she was encumbered by having to explain the discrepancy between the factual and legal situation in various contexts, such as in connection with social contributions to her dwelling costs and the fees for household-waste removal. Mr D.'s mail is being delivered to her address, the police have visited her house and there is a possibility that they will do so again. It is noted that the Government has not challenged these allegations.

50. The Court considers that, by their nature, the above circumstances fall to be examined from the point of view of respect for the applicant's private life and home.

51. The Court observes in the first place that the applicant does not complain of a direct interference by a public authority with the exercise of her Article 8 rights. Rather, she complains that, as a result of deficiencies in the registration provisions of the 1982 Act, she has had to endure various interferences in the enjoyment of her private life and home, including the registration of an unrelated person as resident at her house, the payment of additional social contributions and fees, misdelivery of official mail and other documents and a visit by the police to her house for reasons unconnected with her. The Court observes, however, that even in the absence of any direct interference by a public authority, the obligation to secure the effective exercise of Convention rights imposed by Article 1 of the Convention may involve positive obligations on a State and that these obligations may require the adoption of measures to protect Article 8 rights even in the sphere of relations between individuals (see, for example, *X and Y v. the Netherlands*, 26 March 1985, §§ 22 and 23, Series A no. 91, and *Whiteside v. the United Kingdom*, no. 20357/92, Commission decision of 7 March 1994, Decisions and Reports 76-A, p. 80). In determining whether or not a positive obligation exists and whether such an obligation has been complied with, regard must be had to the fair balance that has to be struck

between the general interest of the community and the interests of the individual and in striking that balance the aims referred to in the second paragraph of Article 8 may be of a certain relevance.

52. The Court finds that the impact on the applicant's Article 8 rights, resulting from the fact that Mr D. could not secure his deregistration, was sufficiently serious to amount to an interference with her right to respect for her private life and home. It further finds that this interference derived directly from the provisions of the 1982 Act, which only permitted a former resident of a house to remove his or her name from the register where that person had established a new permanent place of residence elsewhere, which in the present case Mr D. was unable to do. The Court notes that the Government have not advanced any argument in terms of the public interest to justify the system under the 1982 Act, whereby the official registration of a permanent place of residence does not correspond to the actual situation. In these circumstances, the Court finds that no fair balance has been struck between the interests of the applicant and those of the community and that there has, in consequence, been a failure in the domestic legal system to secure the applicant's rights to respect for her private life and home under Article 8 of the Convention.

There has accordingly been a violation of Article 8 of the Convention on that account.

## II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1

53. The applicant complained that the impossibility of obtaining cancellation of Mr D.'s registration as permanently resident at her house, the consequences set out above and, in particular, the fact that his continued registration constituted an obstacle to the sale of the house, amounted to a violation of her property rights. She relied on Article 1 of Protocol No. 1, which provides:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

### **A. Admissibility**

54. The Government contended that the facts of the case disclosed no appearance of a violation of the applicant's right to the peaceful enjoyment of her possessions.

55. The applicant disagreed.

56. The Court considers, in the light of the parties' submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established.

### **B. Merits**

57. Having regard to its above finding under Article 8 of the Convention, the Court considers that it is not necessary to examine separately whether, in this case, there has been a violation of Article 1 of Protocol No. 1.

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

58. 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**

59. The applicant made a claim for compensation in respect of non-pecuniary damage and left the amount to the Court's discretion.

60. The Government did not express an opinion on the matter.

61. The Court observes that the relevant legislation is expected to change and that under the amended legislation the applicant is expected to have an opportunity to apply for cancellation of Mr D.'s registration as permanently resident at her house (see paragraphs 29 and 36 above). Nevertheless, it considers that the applicant suffered damage of non-pecuniary nature on account of the above violation of her rights under Article 8 of the Convention. Ruling on an equitable basis, it awards her 1,500 euros under that head.

**B. Default interest**

62. 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 application admissible;
2. *Holds* that there has been a violation of the applicant's right under Article 8 of the Convention to respect for her private life and home;
3. *Holds* that it is not necessary to examine separately the complaint under Article 1 of Protocol No. 1;
4. *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 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;
  - (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.

Done in English, and notified in writing on 20 June 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early  
Registrar

Nicolas Bratza  
President