



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

FOURTH SECTION

CASE OF RIŠKOVÁ v. SLOVAKIA

(Application no. 58174/00)

JUDGMENT

STRASBOURG

22 August 2006

FINAL

22/11/2006

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 Rišková v. Slovakia,

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

Sir Nicolas BRATZA, *President*,
Mr J. CASADEVALL,
Mr G. BONELLO,
Mr M. PELLONPÄÄ,
Mr K. TRAJA,
Mr S. PAVLOVSKI,
Mr J. ŠIKUTA, *judges*,

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

Having deliberated in private on 11 July 2006,

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

PROCEDURE

1. The case originated in an application (no. 58174/00) 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 Ingrid Rišková (“the applicant”), on 23 January 1999.

2. The applicant, who had been granted legal aid on 30 March 2005, was represented by Mr M. Benedik, a lawyer practising in Bratislava. The Government of the Slovak Republic (“the Government”) were represented by their Agent, Mrs A. Poláčková.

3. On 24 September 2004 the Court decided to communicate the application. 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**

4. The applicant was born in 1965 and lives in Trnava.

1. Proceedings concerning the dissolution of co-ownership of a real estate (Trnava District Court file 17C 66/91)

5. The applicant is the defendant in civil proceedings concerning the dissolution of co-ownership of a real estate. The proceedings were instituted before the Trnava District Court on 27 March 1991.

6. In the course of 1991 four hearings were scheduled in the case.

7. On 14 February 1992 an expert opinion was submitted and on 4 March 1992 the District Court asked a different expert to submit an opinion. On 10 November 1993 a third expert was asked to submit an opinion.

8. Between 17 December 1992 and 11 March 1993 the Bratislava Regional Court dealt with the applicant's appeal against the decision on an advance on experts' costs.

9. The third expert's opinion was served on the parties on 15 February 1993.

10. Three hearings were held between March and July 1993. During the same period the second expert was asked for an opinion. It was submitted on 31 May 1993. On 30 March 1993 the applicant appealed against the decision on experts' fees.

11. On 5 August 1993 the second and third experts were heard.

12. A hearing was held on 11 October 1993.

13. On 13 October 1993 the District Court exempted the applicant from the obligation to pay fees.

14. On 18 March 1994 the third expert submitted a further opinion at the District Court's request of 16 December 1993.

15. Two hearings were held in May 1994.

16. On 22 July 1994 an administrative authority submitted its opinion on possible distribution of the real estate.

17. The District Court heard the parties on 17 October 1994. On 17 November 1994 it delivered a judgment by which it dissolved the joint ownership of the estate and distributed it between the owners.

18. On 20 April 1995 the appellate court quashed the judgment following the applicant's appeal.

19. Hearings before the District Court were scheduled for 18 October 1995 and 20 November 1995. The applicant and the expert did not appear at the former hearing. Another hearing was held on 13 December 1995.

20. On 12 February 1996 the file was submitted to the Regional Court as the applicant had challenged the Trnava District Court judge dealing with the case.

21. The file was returned to the District Court on 4 March 1996 after the Regional Court had decided that the judge was not biased.

22. On 12 June 1996 the District Court dismissed the applicant's request for exemption from the obligation to pay the court fees. On 31 October 1996 the Regional Court overturned this decision.

23. On 4 April 1997 an inspection of the property in question took place in the presence of the parties.

24. On 17 June 1997 the District Court heard the parties. It decided to re-visit the site in the presence of the expert, the representative of the competent authority and the parties.

25. On 25 September 1997 the judge and the parties re-visited the site.

26. On 30 September 1997 the District Court heard the plaintiff. It issued an interim measure prohibiting the plaintiff from re-constructing the property. On 29 May 1998 the Regional Court modified this decision.

27. On 22 September 1998 the District Court stayed the proceedings pending the outcome of proceedings in which the marital property of the plaintiffs was to be distributed. On 26 February 1999 the Regional Court upheld this decision.

28. The marital property of the plaintiffs was distributed by a judgment of 2 July 1999 which became final on 8 March 2001. According to the judgment, each of the plaintiffs owned one half of the relevant real property.

29. On 2 July 2001 the Trnava District Court decided that the proceedings in issue were to be resumed as from 8 March 2001.

30. On 2 October 2001 the case was adjourned.

31. On 19 November 2001 one of the plaintiffs informed the District Court that he wished to withdraw his action. In November and December 2001 the District Court tried to establish the whereabouts of that plaintiff.

32. On 1 March 2002 the other plaintiff informed the District Court that she wished to withdraw the action. On 12 March 2002 the applicant stated that she did not agree to withdrawal of the action and requested that the merits of the case be determined.

33. On 14 March 2002 the applicant requested that the case be transferred to a different court. The file was submitted to the Regional Court on 7 June 2002. On 31 July 2002 it returned the case to the District Court as the applicant's request was not sufficiently specific. On 1 August and on 26 September 2002 the District Court asked the applicant to substantiate her request. On 1 October 2002 the applicant was asked to pay a fee. On 9 October 2002 the applicant withdrew her request and the Regional Court in Trnava discontinued the proceedings related to it on 8 October 2003.

34. On 8 January 2004 the District Court obtained information about the address of one of the plaintiffs.

35. A hearing was scheduled for 28 June 2004. One of the plaintiffs excused herself from the hearing and informed the court that she did not wish to pursue the case.

36. On 7 September 2004 the District Court discontinued the proceedings as both plaintiffs had withdrawn their claims.

37. On 23 September 2004 the applicant appealed and requested that the point in issue be determined. On 5 November 2004 she submitted further reasons for her appeal.

38. On 29 April 2005 the Regional Court in Trnava upheld the decision to discontinue the proceedings on the merits. It quashed the first-instance decision on the costs of the proceedings and returned the relevant part of the case to the District Court.

39. On 26 August 2005 the applicant filed an appeal on points of law against the Regional Court's decision.

40. On 2 November 2005 the District Court exempted the applicant from the obligation to pay the cassation fee.

41. On 16 December 2005 the file was submitted to the Supreme Court for a decision on the applicant's appeal on points of law.

42. The proceedings are pending.

2. Proceedings concerning the applicant's claim of 20 November 1995 (Trnava District Court file 12C 198/95)

43. On 20 November 1995 the applicant claimed a sum of money from an individual before the Trnava District Court.

44. On 4 December 1995 the applicant informed the District Court that the defendant had paid a part of the sum due.

45. Five hearings were scheduled between January and May 1996.

46. Another two hearings were held on 15 November and on 17 December 1996.

47. In April 1997 the case was assigned to a different judge.

48. On 21 July 1997 the District Court asked the parties to submit comments on documentary evidence. The applicant replied on 1 August 1997. The mail, including a reminder, addressed to the defendant was returned to the court.

49. On 1 December 1997 and on 7 January 1999 the case was adjourned as the defendant had refused to receive the summons. The police informed the court that the defendant did not live at the addresses indicated by the court.

50. On 8 February 1999 the Central Population Registry informed the District Court of the defendant's permanent address.

51. On 25 May 1999 the court accepted a modification of the applicant's claim. The defendant challenged the judge. The case was therefore adjourned and the file was transmitted to the Banská Bystrica Regional Court on 1 June 1999.

52. On 29 July 1999 the Regional Court found that the District Court judge was not biased. The file was returned to the District Court on 8 September 1999. The District Court sent the decision to the parties on 1 February 2000. As the mail sent to the defendant was returned to the court, it requested the police to serve it on him. On 11 August 2000 the District Court again sent the Regional Court's decision of 29 July 1999 to the defendant. On 5 November 2000 the District Court judge made a note

that the mail sent to the defendant had neither been served nor returned to the court. The mail was returned, undelivered, on 15 November 2000.

53. On 30 October 2000 the case was assigned to a different judge.

54. On 5 December 2000 the District Court again asked the police to serve the above decision on the defendant. It also asked the Trnava Town Office to inform it of the defendant's address. The Town Office replied on 29 December 2000. On 2 January 2001 the police informed the District Court that it was impossible to serve the decision on the defendant. On 26 March 2001 the District Court again asked the police to serve the document on the defendant. On 26 April 2001 the police informed the court that they could not reach the defendant.

55. On 1 August 2001 a different judge was assigned to deal with the case. The judge received the file on 6 September 2001.

56. On 13 November 2002 the case was adjourned because of the absence of the defendant. On the same day the applicant informed the court that the defendant had paid the remainder of the sum due. She modified her claim in that she claimed default interest on the sum in question and reimbursement of her costs.

57. On 25 November and on 2 December 2002 the authorities concerned informed the District Court of the addresses at which the defendant was registered.

58. On 27 June 2003 the District Court heard the parties. On 4 July 2003 the applicant specified her outstanding claim at the court's request.

59. On 9 December 2003 the applicant extended her claim in that she claimed an additional sum from the defendant.

60. On 10 December 2003 the District Court held a hearing at which the defendant failed to appear. It invited the applicant to file her additional claim in accordance with the formal requirements. The applicant replied. On 27 February 2004 she made a new submission in respect of the relevant part of the claim at the court's request of 7 January 2004.

61. On 13 May 2004 the applicant complained to the President of the District Court that the case had not been proceeded with despite the Constitutional Court's order of 27 October 2003 (see paragraph 74 below). On 28 June 2004 the vice-president of the District Court dismissed the complaint as being manifestly ill-founded.

62. On 9 September 2004 the applicant asked the District Court to indicate the shortcomings which had to be rectified in her action.

63. On 16 September 2004 the District Court issued a decision requesting the applicant to eliminate a number of specific shortcomings in her claim within 10 days. That decision was served on the applicant on 4 January 2005.

64. On 13 January 2005 the applicant informed the District Court that she wished to withdraw her claim for payment of the debt and the additional

sum and that she only requested that the defendant be ordered to reimburse her costs and expenses.

65. On 16 September 2005 the defendant submitted comments on the case.

66. On 7 December 2005 the District Court held a hearing. It invited the applicant to specify the sums which she had obtained from the defendant. On 30 December 2005 the applicant replied that she had already submitted that information.

67. The proceedings are pending.

3. Proceedings before the Constitutional Court

(a) Complaint about the proceedings concerning the dissolution of co-ownership

68. On 16 December 2002 the applicant complained to the Constitutional Court about the length of the proceedings concerning the dissolution of co-ownership of a real estate. She indicated that the District Court in Trnava was the authority responsible for the alleged violation. The applicant claimed, *inter alia*, just satisfaction of 130,000 Slovakian korunas (SKK). She later increased this sum to SKK 34 million.

69. On 27 October 2003 the Constitutional Court found a violation of the applicant's constitutional right to a hearing without undue delay. It ordered the Trnava District Court to proceed with the case expeditiously. The Constitutional Court further awarded SKK 20,000¹ as just satisfaction to the applicant.

70. In its finding the Constitutional Court stated that it only had regard to the length of the proceedings after 15 February 1993 when the Constitutional Court Act came into effect.

71. The Constitutional Court admitted that the overall length of the period under consideration was partly due to the factual complexity of the case. In its view, the applicant had contributed substantially to the length of the proceedings by her procedural motions, such as appeals against procedural decisions, requests for exemption from the obligation to pay the fees, comments on questions put to experts and by challenging the District Court judges.

72. As regards the conduct of the District Court, the Constitutional Court noted that the period under consideration lasted more than ten years and that during that time the District Court had held seventeen hearings. Even taking into account that the proceedings had been stayed for two years and five months pending the outcome of a different set of proceedings, their overall length was not reasonable in the particular circumstances of the case. The Constitutional Court noted, in particular, that undue delays of thirteen and

¹ The equivalent of approximately 500 euros.

twelve months respectively had occurred between 4 March 1996 and 4 April 1997 and between 9 October 2002 and 1 October 2003. The decision further stated that the District Court had not proceeded with the case diligently.

(b) Complaint about the proceedings concerning the applicant's claim of 20 November 1995

73. On 6 December 2002 the applicant filed a complaint under Article 127 of the Constitution about the length of the proceedings concerning her claim of 20 November 1995. She claimed, *inter alia*, SKK 2 million in just satisfaction.

74. On 27 October 2003 the Constitutional Court found that the Trnava District Court had violated the applicant's constitutional right to a hearing without undue delay. It ordered the Trnava District Court to proceed with the case expeditiously. The Constitutional Court further awarded SKK 10,000¹ as just satisfaction to the applicant.

75. The decision stated that the case was not complex. As to the applicant's conduct, the Constitutional Court noted that the defendant had paid her the remainder of the sum originally due on 27 May 1999 and that she had only informed the District Court of this fact and modified her claim accordingly on 13 November 2002.

76. The decision further stated that the District Court was responsible for undue delays in the proceedings between 1 December 1997 and 7 January 1999 and between 6 September 2001 and 13 November 2002.

77. When awarding just satisfaction to the applicant the Constitutional Court took into account that at that time the proceedings no longer concerned the principal sum originally claimed by the applicant, but only default interest and her costs.

(c) Complaint of 3 May 2004

78. On 3 May 2004 the applicant again complained to the Constitutional Court about the length of the proceedings before the Trnava District Court which had been brought against her in 1991. She alleged that the District Court had failed to proceed with the case in compliance with the Constitutional Court's finding of 27 October 2003.

79. The Constitutional Court rejected the complaint as being inadmissible on 27 May 2004. The decision stated that less than seven months had lapsed from the delivery of the Constitutional Court's judgment of 27 October 2003.

¹ The equivalent of approximately 250 euros.

(d) Submissions of 3 and 9 June 2004

80. In two separate letters addressed to the Constitutional Court and dated 3 June 2004 the applicant complained that the District Court in Trnava had caused further delays in the proceedings concerning her cases. She requested that an advocate be appointed to represent her in the constitutional proceedings.

81. In the letter concerning the proceedings brought in 1995 the applicant stated that the District Court had also violated her rights under Articles 8 and 12 of the Convention, under Article 1 of Protocol No. 1 and under Articles 2-5 of Protocol No. 7. She submitted no further reasons for that allegation.

82. On 9 June 2004 the applicant sent a letter to the President of the Constitutional Court requesting that the District Court should proceed with the cases without any further delay.

THE LAW

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

83. The applicant complained that the length of the above two sets of proceedings 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...”

84. As regards the proceedings concerning the dissolution of the co-ownership of a real estate brought on 27 March 1991, the period to be taken into consideration only began on 18 March 1992, when the recognition by the former Czech and Slovak Federal Republic, of which Slovakia is one of the successor States, of the right of individual petition took effect. However, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time. That period has not yet ended. It has thus lasted 14 years and more than 3 months for three levels of jurisdiction. The Court has noted that the proceedings were stayed, for 29 months approximately, pending the outcome of proceedings in which the marital property of the plaintiffs had to be distributed.

As regards the other set of proceedings, the period to be taken into consideration began on 20 November 1995 and has not yet ended. It has thus lasted 10 years and more than 7 months during which the merits of the case have been examined at a single level of jurisdiction.

A. Admissibility

85. The Government, with reference to the Constitutional Court's judgments of 27 October 2003, argued that the applicant could no longer claim to be a victim, within the meaning of Article 34 of the Convention, in respect of any delays in the proceedings covered by those judgments. They argued that the just satisfaction awarded by the Constitutional Court was not disproportionately low in the particular circumstances. In addition, the Constitutional Court had ordered the District Court to proceed with the cases without any further delay.

86. In the Government's view, no further delays arose in the proceedings before the District Court following the delivery of the above judgments of the Constitutional Court. In any event, the applicant should have sought redress by means of fresh complaints under Article 127 of the Constitution.

87. The applicant disagreed. She submitted that the just satisfaction awarded to her by the Constitutional Court in respect of both sets of proceedings was unreasonably low and that the Trnava District Court had failed to proceed with her cases speedily after the delivery of the Constitutional Court's judgments of 27 October 2003.

88. The question whether the applicant can still claim to be a "victim", within the meaning of Article 34 of the Convention, of a violation of her right to a hearing within a reasonable time falls to be determined in the light of the principles recently established under the Court's case-law (*Cocchiarella v. Italy* [GC], no. 64886/01, §§ 69-107, ECHR 2006-... and *Scordino v. Italy (no. 1)* [GC], no. 36813/97, §§ 178-213, ECHR 2006 - ...).

89. The Constitutional Court, after having analysed the two sets of proceedings complained of in the light of the criteria which the Court also applies, awarded the applicant the equivalent of 500 euros (EUR) in respect of the proceedings brought in 1991 and EUR 250 euros in respect of the proceedings brought in 1995. The just satisfaction awarded by the Constitutional Court amounts to approximately 10 and 5 per cent respectively of what the Court would be likely to award the applicant, at that time, in accordance with its practice taking into account the particular circumstances of the two sets of proceedings in issue. This factor alone leads to the conclusion that the redress provided to the applicant at domestic level, considered on the basis of the facts about which she complains before the Court, was insufficient. In these circumstances, the argument that the applicant has lost her status as a "victim" cannot be upheld.

90. The Constitutional Court explicitly ordered the District Court in Trnava to proceed with the applicant's cases without any further delay. In these circumstances, the applicant was not required, for the purpose of Article 35 § 1 of the Convention, to file fresh constitutional complaints if she was of the opinion that the District Court had failed to comply with those orders.

The Court further notes that it was open to the applicant to seek redress by means of the remedy under Article 127 of the Constitution to the extent that she may be understood as complaining also about delays in the proceedings before the Regional Court and the Supreme Court after the delivery of the Constitutional Court's judgments of 27 October 2003. The applicant has not done so, and this fact has to be taken into account when determining the merits of this part of the application and, if appropriate, the applicant's claims for just satisfaction under Article 41 of the Convention.

91. The complaint about the length of the two sets of proceedings in issue is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

92. The Government referred to the Constitutional Court's judgments given on 27 October 2003 and admitted that the applicant's right to a hearing within a reasonable time had been violated in both sets of proceedings.

93. The applicant maintained that the Constitutional Court had not taken into account all delays which had occurred in the course of the proceedings. Furthermore, the District Court had not respected the order of the Constitutional Court. In particular, as regards the proceedings brought in 1995, the District Court had taken more than 9 months to clearly specify, in the decision of 16 September 2004, the shortcomings which the applicant was required to eliminate in her submissions. The District Court had not subsequently proceeded with the case diligently.

94. 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).

95. Having examined all the material submitted to it, and having regard to its case-law on the subject, the Court concurs with the findings of the Constitutional Court that the length of both sets of proceedings complained of was excessive and failed to meet the "reasonable time" requirement.

96. As regards the period subsequent to the delivery of the Constitutional Court's judgments, the Court, given the lengthy intervals between the various individual procedural steps, shares the applicant's view that further unjustified delays occurred in the course of 2004 and 2005 in the proceedings before the District Court on the action initiated in 1995.

As regards the proceedings brought in 1991, the Court notes that the District Court scheduled a hearing more than 5 months after it had identified the address of one of the plaintiffs. The Court would not attach particular importance to this fact as the District Court discontinued the proceedings on 7 September 2004, that is less than one year after the delivery of the Constitutional Court's finding. Subsequently, the court of appeal and the court of cassation dealt with the case at the applicant's request.

97. In view of the above considerations, the Court concludes that there has been a breach of Article 6 § 1 in respect of the length of the two sets of proceedings in issue.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

98. The applicant further complained that she had no effective remedy at her disposal as regards the alleged violation of her right to a hearing within a reasonable time. She relied on Article 13 of the Convention.

99. The Government contested that argument.

100. As from 1 January 2002 it has been open to the applicant to complain under Article 127 of the Constitution about unjustified delays in the proceedings. The applicant had recourse to that remedy and the Constitutional Court found that her right to a hearing within a reasonable time had been violated in both sets of proceedings. It provided redress of both a compensatory and preventative nature to her. The applicant thus had an effective remedy at her disposal as required by Article 13. The fact that the just satisfaction awarded by the Constitutional Court does not coincide with the awards of the Court in comparable cases or that, as the applicant alleges, further delays occurred after the delivery of the Constitutional Court's judgments of 27 October 2003, cannot affect the position.

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

III. ALLEGED VIOLATION OF ARTICLES 1, 3, 5, 8, 12 AND 14 OF THE CONVENTION, OF ARTICLE 1 OF PROTOCOL No. 1, OF ARTICLES 2-4 OF PROTOCOL No. 4 AND OF ARTICLES 2-5 OF PROTOCOL No. 7

102. The applicant complained under Articles 3 and 14 of the Convention that by its conduct in her cases the Trnava District Court subjected her to degrading and discriminatory treatment. She further alleged that the facts of the case also amounted to a violation of her rights under Articles 1, 5, 8 and 12 of the Convention, under Article 1 of Protocol No. 1, under Articles 2 to 4 of Protocol No. 4 and under Articles 2 to 5 of Protocol No. 7.

103. The Government objected that the applicant had not exhausted domestic remedies as she failed to seek redress in due form before the domestic authorities including, ultimately, the Constitutional Court. As regards the complaint under Article 1 of Protocol No. 1 in particular, they expressed doubt about whether the applicant's submissions of 3 and 9 June 2004 had reached the Constitutional Court and whether they met the formal requirements for new proceedings to be brought before the Constitutional Court.

104. The Court notes that in her letter to the Constitutional Court of 3 June 2004 concerning the proceedings brought in 1995 the applicant invoked several provisions of the Convention, including Article 1 of Protocol No. 1, without giving further reasons. Even assuming that domestic remedies were exhausted, the Court finds that the above complaints, to the extent that they have been substantiated and fall within its competence, disclose no appearance of a violation of the Convention or its Protocols.

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

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

106. 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

107. The applicant claimed SKK 3 million in respect of non-pecuniary damage.

108. The Government contested the claim.

109. The Court recalls that, where an applicant can still claim to be a “victim” after exhausting the domestic remedy available, he or she must be awarded the difference between the amount obtained in domestic proceedings and an amount that would not have been regarded as manifestly unreasonable compared with the amount awarded by the Court if it had been awarded by the competent domestic authority. Applicants should also be awarded an amount in respect of stages of the proceedings that may not have been taken into account by the competent domestic authority (see the *Cocchiarella v. Italy* [GC] judgment referred to above, §§ 139-141).

110. The Court finds that on the basis of the circumstances of the present case it would have awarded, in the absence of domestic remedies and at the

time when the Constitutional Court's decisions were given, the sum of EUR 5,000 in respect of each of the two sets of proceedings complained of. It notes that the applicant was awarded EUR 500 and EUR 250 respectively which is 10 and 5% of what the Court would have awarded.

Having regard to the characteristics of the constitutional remedy chosen in Slovakia and the fact that, notwithstanding this national remedy, the Court has found a violation, it considers, ruling on an equitable basis, that the applicant should be awarded the total sum of EUR 3,750 in respect of the two sets of proceedings.

The Court also awards EUR 1,000 for the further delay suffered by the applicant in the proceedings before the District Court concerning her action of 1995.

111. Accordingly, the applicant is entitled to compensation for non-pecuniary damage in the sum of EUR 4,750, plus any tax that may be chargeable on that amount.

B. Costs and expenses

112. The applicant also claimed SKK 7,400 (approximately 200 euros) for the costs and expenses incurred before the Court.

113. The Government contested the claim arguing that any compensation awarded by the Court should exclusively concern the reasonably incurred costs and expenses.

114. According to the Court's case-law, an applicant is entitled to reimbursement of his or her 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, the President of the Chamber decided, on 30 March 2005, that legal aid should be granted to the applicant. The applicant appointed a lawyer to represent her in the proceedings before the Court, under the legal aid scheme of the Council of Europe, on 12 June 2005.

In these circumstances, the Court considers it reasonable to award the sum of EUR 100 in respect of postage, photocopying and other out-of-pocket expenses which the applicant incurred in the context of the proceedings before the Court prior to the decision to grant legal aid to her.

C. Default interest

115. 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

1. *Declares* unanimously the complaint under Article 6 § 1 of the Convention concerning the excessive length of the two sets of proceedings in issue admissible and the remainder of the application inadmissible;
2. *Holds* unanimously that there has been a violation of Article 6 § 1 of the Convention as a result of the length of both sets of proceedings;
3. *Holds* by five votes to two
 - (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 4,750 (four thousand seven hundred and fifty euros) in respect of non-pecuniary damage and EUR 100 (one hundred euros) in respect of costs and expenses, the above amounts to be converted into the currency of the respondent State 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* by five votes to two the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 22 August 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY
Registrar

Nicolas BRATZA
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the partly dissenting opinion of Mr Casadevall and Mr Bonello is annexed to this judgment.

N.B.
T.L.E.

PARTLY DISSENTING OPINION OF JUDGES
CASADEVALL AND BONELLO

(Translation)

1. We did not vote with the majority on items 3 and 4 of the operational provisions of the judgment because, without any convincing reason being given, the amount awarded for non-pecuniary damage under Article 41 (just satisfaction) was substantially less than it should have been.

2. The applicant had brought two sets of civil proceedings. The first concerned an application to bring a co-ownership arrangement to an end and began on 27 March 1991; the second concerned a claim for a sum of money and began on 20 November 1995. However, even though the applicant has exhausted the available domestic remedies in the Constitutional Court, both sets of proceedings are still pending. The question which this raises is whether the remedy provided to deal with length-of-proceedings complaints in Slovakia is (in the light of the principles established by the *Kudla v. Poland* judgment) effective “... in the sense either of preventing the alleged violation or its continuation, or of providing adequate redress for any violation that had already occurred”. This does not appear to have been the case in this instance, as the proceedings have still not ended and the applicant has received only EUR 750 in compensation.

3. The applicant may, therefore, still claim to be a victim of the alleged violation, as is recognised in paragraph 89 of the judgment. Since she has not, in our view, contributed to the excessive delays in the proceedings, her award of just satisfaction for non-pecuniary damage should have been calculated in accordance with the principles laid down in the recent judgments of *Cocchiarella v. Italy* and *Scordino v. Italy*, which, by our reckoning, would have entitled her to the sum of EUR 6,775.